

No. 7650

United States
Circuit Court of Appeals
For the Ninth Circuit. 4

J. V. SPAUGH and HARRY M. CURRY,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record.

Upon Appeal from the District Court of the United States for the
Southern District of California, Central Division.

FILED

OCT 20 1934

PAUL P. O'BRIEN,
CLERK



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Circuit Court of Appeals
For the Ninth Circuit.

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Appellants,

vs.

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Southern District of California, Central Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italics; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Defendant and Appellant J. V. Spaugh:

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WILLIAM R. GALLAGHER, Esq.,

Rowan Building,

Los Angeles, California.

For Defendant and Appellant Harry M. Curry:

AMES PETERSON, Esq.,

Black Building,

Los Angeles, California.

For Plaintiff and Appellee:

PEIRSON M. HALL, Esq.,

United States Attorney,

ERNEST R. UTLEY, Esq.,

Assistant United States Attorney,

J. J. IRWIN, Esq.,

Assistant United States Attorney,

Federal Building,

Los Angeles, California.

UNITED STATES OF AMERICA, ss.

TO UNITED STATES OF AMERICA, AND TO
PEIRSON M. HALL, UNITED STATES AT-
TORNEY FOR THE SOUTHERN DISTRICT
OF CALIFORNIA, and to ERNEST E. UTLEY,
ASSISTANT UNITED STATES ATTORNEY,
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 14th day of April, A. D. 1934, pursuant to an order allowing appeal filed in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain action entitled, "United States of America, Plaintiff, vs. Roscoe Clough, J. V. Spaugh, et al., Defendants," No. 11752-H, wherein J. V. Spaugh is defendant and appellant and you are the plaintiff and appellee, to show cause, if any there be, why the judgment and sentence in the said action mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Harry A. Hollzer, United States District Judge for the Southern District of California, this 15th day of March, A. D. 1934, and of the

Independence of the United States, the one hundred and fifty-eighth.

Hollzer

U. S. District Judge for the Southern District of
California.

Rec'd copy this 15 day of March, 1934.

Ernest R. Utley

Asst U. S. Atty.

[Endorsed]: Filed Mar. 15 1934 R. S. Zimmerman,
Clerk By Thomas Madden, Deputy Clerk.

UNITED STATES OF AMERICA, ss.

To United States of America and Peirson M. Hall as
United States Attorney for the Southern District of
California, Greeting:

You are hereby cited and admonished to be and appear
at a United States Circuit Court of Appeals for the Ninth
Circuit, to be held at the City of San Francisco, in the
State of California, on the 14th day of April, A. D. 1934,
pursuant to an order allowing appeal filed in the Clerk's
Office of the District Court of the United States, in and
for the Southern District of California, in those cer-
tain actions entitled United States of America, plaintiff, vs

Roscoe Clough and Harry M. Curry et al defendants, Nos. 11752 H and 11757 H. wherein Harry M. Curry is appellant and defendant and you are plaintiff and appellee to show cause, if any there be, why the judgment and sentence in the said action mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Harry A. Hollzer, United States District Judge for the Southern District of California, this 15th day of March, A. D. 1934, and of the Independence of the United States, the one hundred and fifty-eighth.

Hollzer

U. S. District Judge for the Southern District of
California.

Received copy within citation this 15th day of March,
1934

PEIRSON M. HALL,
United States Attorney

By Ernest R. Utley
Assistant United States Attorney.

[Endorsed]: Filed Mar. 15, 1934. R. S. Zimmerman,
Clerk By Thomas Madden, Deputy Clerk.

No. 11752-H

Filed

Viol: Section 37 Federal Penal Code (18 USC 88)

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand Nine hundred thirty-three:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

That

ROSCOE CLOUGH,

FRED C. MACOMBER, alias Fred Clayton,

alias J. H. Hartman,

JACK MALOWITZ

MACK A. HINSON, alias Ed Wideman,

J. V. SPAUGH,

E. LEE SONNENBERG,

JEWEL SENHOUSE, alias Cordelia Nelson

HARRY M. CURRY,

MARY ROUNTREE,

W. N. HAWLEY, whose true name is to the grand
jurors unknown,

MARY E. MARTIN, whose true name is to the
grand jurors unknown,

ED WIDEMAN, whose true name is to the grand
jurors unknown,

H. C. HAWLEY, whose true name is to the grand
jurors unknown,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: prior to the dates of the commission of the overt acts hereinafter set forth, and continuously thereafter to and including the date of finding and presentation of this indictment, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did then and there knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with each other, and with divers other persons whose names are to the grand jurors unknown, to commit an offense against the United States of America and the laws thereof, the offense being to knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and willingly aid and assist in the false making, forging and counterfeiting of certain orders and writings for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers

and agents sums of money, that is to say, they, the said defendants, would knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said orders and writings the names of the payees of the said orders and writings, and to thereafter knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true, said false, forged and counterfeited orders and writings, with intent to defraud the United States, knowing the said orders and writings to be false, forged and counterfeited;

And the grand jurors aforesaid, upon their oath aforesaid, do further charge and present that at the hereinafter stated times, in pursuance of, and in furtherance of, in execution of, and for the purpose of carrying out and to effect the object, design and purposes of said conspiracy, combination, confederation and agreement aforesaid, the hereinafter named defendants did commit the following overt acts in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court:

1. That on or about the 17th day of July, 1933, defendants ROSCOE CLOUGH and W. N. HAWLEY whose true name is to the grand jurors unknown, passed at the Farmers and Merchants National Bank in Los Angeles, California, five United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being number 462452 in the sum of One Thousand Dollars (\$1,-

000.00), number 462453 in the sum of One Thousand Dollars (\$1,000.00), number 462454 in the sum of One Thousand Dollars (\$1,000.00), and number 462455 in the sum of One Thousand Dollars (\$1,000.00) and number 52632 in the sum of Five Thousand Dollars (\$5,000.00);

2. That on or about the 22nd day of July, 1933, defendants FRED C. MACOMBER, alias Fred Clayton, alias J. H. Hartman, MARY E. MARTIN whose true name is to the grand jurors unknown, ROSCOE CLOUGH and JACK MALOWITZ indorsed and caused to be indorsed at the Farmers and Merchants National Bank in Los Angeles, California, four United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 545291, 545292, 545293 and 545294, in the sum of One Thousand Dollars (\$1,000.00) each;

3. That on or about the 17th day of July, 1933, defendants ROSCOE CLOUGH, HARRY M. CURRY, JACK MALOWITZ and H. C. HAWLEY whose true name is to the grand jurors unknown, passed to Charles Ehrlich at Los Angeles, California, four United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 746923, 746924, 746925 and 746926, in the sum of One Thousand Dollars (\$1,000.00) each;

4. That on or about the 26th day of June, 1933, defendants HARRY M. CURRY, JACK MALOWITZ, ROSCOE CLOUGH and ED WIDEMAN whose true name is to the grand jurors unknown, passed at the International Branch of the Bank of America National Trust and Savings Association in Los Angeles, California, three United States Liberty Loan Bonds, Fourth, four

and one-fourth per cent, being numbers 618609, 618610 and 618611, in the sum of One Thousand Dollars (\$1,000.00) each;

5. That on or about the 19th day of June, 1933, defendants MACK A. HINSON, alias Ed Wideman, and J. V. SPAUGH passed at the Bell Branch of the California Bank at Bell, California, one United States Liberty Loan Bond, Fourth, four and one-fourth per cent, being number 618608, in the sum of One Thousand Dollars (\$1,000.00);

6. That on or about the 20th day of July, 1933, defendants ROSCOE CLOUGH, J. V. SPAUGH, and FRED C. MACOMBER, alias Fred Clayton, alias J. H. Hartman, passed at the Bell Branch of the Bank of America National Trust and Savings Association at Bell, California, one United States Liberty Loan Bond, Third, four and one-fourth per cent, being number 107676 in the sum of One Thousand Dollars (\$1,000.00), and four United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 167813 in the sum of One Thousand Dollars (\$1,000.00), and numbers 130400, 156648 and 206348 in the sum of Five Hundred Dollars (\$500.00) each;

7. That on or about the 1st day of August, 1933, defendants ROSCOE CLOUGH, JEWEL SENHOUSE, alias Cordelia Nelson, E. LEE SONNENBERG and MARY ROUNTREE passed at the Seventh and Central Branch of the Bank of America National Trust and Savings Association at Los Angeles, California, two United States Liberty Loan Bonds, fourth, four and one-fourth

per cent, being numbers 640030 and 640031 in the sum of One Thousand Dollars (\$1,000.00) each;

8. That on or about the 21st day of July, 1933, defendant ROSCOE CLOUGH at the Paul G. Hoffman Company in Los Angeles, California, deposited as collateral for a note given for a Pierce Arrow automobile two United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 479803 and 479802 in the sum of One Thousand Dollars (\$1,000.00) each;

9. That on or about the 1st day of August, 1933, at Los Angeles, California, defendant MARY ROUNTREE indorsed a check made payable to her and signed by the defendants E. LEE SONNENBERG and JEWEL SENHOUSE, alias Cordelia Nelson, in the sum of Eight Hundred Dollars (\$800.00);

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL,

United States Attorney.

Wm. Fleet Palmer

Assistant United States Attorney.

[Endorsed]: Filed Nov. 20, 1933 R. S. Zimmerman,
R. S. Zimmerman, Clerk.

At a stated term, to wit: The September Term, A. D. 1933, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Monday, the 4th day of December, in the year of our Lord one thousand nine hundred and thirty-three.

Present:

The Honorable: GEO. COSGRAVE, District Judge.

United States of America, Plaintiff,)	
)	
	)	vs.
	)	No. 11752-H-Crim.
)	
Roscoe Clough, et al., Defendants.)	

This cause coming on for arraignment and plea of certain defendants; J. J. Irwin, Esq., Assistant U. S. Attorney, appearing for the Government; defendant Jewel Senhouse being present with her attorney, Geo. B. Bush, Esq.; defendant Harry M. Curry being present with his attorney, Wallace Davis, Esq.; the other defendants being absent; defendants Senhouse and Curry waive reading of the Indictment, state their true names to be as given therein, and being required to plead, enter their separate pleas of Not Guilty; whereupon, on motion of J. J. Irwin, Esq., it is ordered that defendant Senhouse be released on her own recognizance in this case; and on motion of W. Davis, Esq., J. J. Irwin, Esq., consenting, it is ordered that bond of defendant Curry be reduced to \$2000.00.

At a stated term, to wit: The September Term, A. D. 1933, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Monday, the 4th day of December, in the year of our Lord one thousand nine hundred and thirty-three.

Present:

The Honorable: GEO. COSGRAVE, District Judge.

United States of America, Plaintiff,)

)

vs.

) No. 11757-J-Crim.

)

Roscoe Clough, et al., Defendants.)

This cause coming on for arraignment and plea; J. J. Irwin, Assistant U. S. Attorney, appearing for the Government; defendant Harry M. Curry being present with his attorney, Wallace Davis, Esq.; defendants Clough, Malowitz and Hawley being absent; defendant Curry waives reading of the Indictment, states his true name to be as given therein, and being required to plead, enters his plea of Not Guilty; whereupon, on motion of W. Davis, Esq., J. J. Irwin, Esq., not objecting, it is ordered that defendant Curry be released on his own recognizance in this case.

At a stated term, to wit: The September Term, A. D. 1933, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Friday, the 8th day of December, in the year of our Lord one thousand nine hundred and thirty-three.

Present:

The Honorable: PAUL J. McCORMICK, District Judge.

United States of America, Plaintiff,)	
)	
vs.	)	No. 11752-H-Crim.
)	
Jack Malowitz, et al., Defendants)	

This cause coming on for arraignment and plea of defendants J. V. Spaugh and Jack Malowitz; E. R. Utley, Assistant U. S. Attorney, appearing for the Government; Harry J. Miller, Esq., appearing for defendant Malowitz, who is present in custody; George R. Robbins and Thos. A. Berkebile, Esqs., appearing for defendant Spaugh; both defendants waive reading of the Indictment, state their true names to be as given therein, and being required to plead, each defendant enters his separate plea of Not Guilty, subject to right to file and present Motions or Demurrer to Judge Hollzer by December 11, 1933; and it is thereupon ordered that trial of this cause, as to said defendants, be set for December 12, 1933.

At a stated term, to wit: The September Term, A. D. 1933, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Friday, the 5th day of January, in the year of our Lord one thousand nine hundred and thirty-four.

Present:

The Honorable: HARRY A. HOLLZER, District Judge.

United States of America,)	
	)	No. 11668-H-Crim.
Plaintiff,	)	No. 11751-H-Crim.
	)	No. 11755-H-Crim.
vs.	)	No. 11756-H-Crim.
	)	No. 11757-H-Crim.
Roscoe Clough, et al.	)	No. 11758-H-Crim.
	)	No. 11752-H-Crim.
Defendants.)	

These consolidated causes coming on for trial as to defendants Clough, Malowitz, Spaugh, Sonnenberg, Senhouse, Curry and Rountree; Ernest R. Utley and J. J. Irwin, Assistant U. S. Attorneys, appearing for the Government; W. M. Pratt being present as stenographic reporter; defendant Roscoe Clough being present, in custody, with his attorneys Raymond Ray and J. G. Ohanesian, Esqs.; defendant Fred C. Macomber, being present in custody and without counsel; defendant Jack Malowitz being present, in custody, with his attorney,

J. G. Ohannesian, Esq.; defendant J. V. Spaugh being present with his attorneys, Geo. R. Robbins, Esq., and F. P. Doherty, Esq.; defendant E. Lee Sonnenberg being present with his attorney, W. P. Redmond, Esq.; defendant Jewell Senhouse being present with her attorney, George B. Bush, Esq.; defendant Harry M. Curry being present with his attorney, Ames Peterson, Esq.; defendant Mary Rountree being present, in custody, with her attorney, Walter A. Ham, Esq.;

E. R. Utley, Esq., moves to place defendant Jewel Senhouse under bond, and the Court orders bail of said defendant fixed in the sum of \$2500.00, to be furnished in case No. 11752-H; and it is ordered that trial of these causes be continued to January 10, 1934, the witnesses being admonished to return at that time;

It is ordered that defendant Rountree be released on her own recognizance, and she is required to report to E. R. Utley, Esq., at 9:30 a. m. daily;

It is ordered that bail of defendant Clough is reduced to \$12,000.00, to be furnished in case No. 11752-H;

F. P. Doherty, Esq., objects to the consolidation of causes for trial on behalf of defendant Spaugh;

The roll of the petit jurors having been called, they are ordered excused until January 10, 1934, at 10 o'clock a. m.;

It is ordered that defendants Clough and Malowitz be brought into court on January 6, 1934, at 9 o'clock a. m.

At a stated term, to wit: The September Term, A. D. 1933, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Tuesday, the 30th day of January, in the year of our Lord one thousand nine hundred and thirty-four.

Present:

The Honorable: HARRY A. HOLLZER, District Judge.

United States of America,)	
	)	No. 11668-H-Crim.
Plaintiff,	)	No. 11752-H-Crim.
	)	No. 11756-H-Crim.
vs.	)	No. 11751-H-Crim.
	)	No. 11755-H-Crim.
Roscoe Clough, et al.,	)	No. 11757-H-Crim.
	)	No. 11758-H-Crim.
Defendants.)	

These consolidated causes coming on for further proceedings on trial as to defendants Roscoe Clough, Jack Malowitz, J. V. Spaugh and Harry M. Curry, all of whom are present when court reconvenes at the hour of 11:25 a. m.; the other defendants being absent; E. R. Utey, Assistant U. S. Attorney, appearing for the Government; Raymond Ray, Esq., appearing as counsel for defendant Clough; J. G. Ohannnesian, Esq., appearing for defendant Malowitz; F. P. Doherty, Esq., appearing for defendant Spaugh; Ames Peterson, Esq., appearing for defendant Harry M. Curry;

The jury, having been taken to breakfast and having returned to the jury room at 9:30 a. m., now, at the hour of 11:25 a. m., enter the court room, and it is stipulated that all jurors, the defendants on trial and their counsel are present; whereupon, the Court inquires of the jury, and the foreman replies that the jury have agreed, and presents their verdicts in these cases, which are ordered filed and recorded, and are read in open court by the Clerk, and as presented and read as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION UNITED STATES OF AMERICA, Plaintiff, vs. ROSCOE CLOUGH, et al. Defendants. No. 11752-H JURY VERDICT CONSPIRACY CHARGE

* * * * *

We, the jury in the above-entitled case, impaneled and sworn, find the defendant J. V. SPAUGH is guilty. Dated Jan. 30, 1934. Ray K. Person, Foreman. We, the jury in the above-entitled case, impaneled and sworn, find the defendant HARRY M. CURRY is guilty. Dated Jan. 29, 1934. Ray K. Person, Foreman.

* * * * *

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION. UNITED STATES OF AMERICA, Plaintiff, vs. ROSCOE CLOUGH, et al., Defendant. No. 11757-J H. C. HAWLEY BONDS. First Count forgery bond #746926, Second Count forgery bond #746925, Third count forgery bond #746924, Fourth count forgery bond

#746923, Fifth count uttering bonds #746926, #746925, #746924, and #746923. Defendants on Trial. ROSCOE CLOUGH, JACK MALOWITZ, HARRY M. CURRY. JURY VERDICT.

* * * * *

We, the jury in the above entitled case, impaneled and sworn, find the defendant HARRY M. CURRY is guilty of Count One, is guilty of Count Two, is guilty of Count Three, is guilty of Count Four, is guilty of Count Five. Dated Jan. 29, 1934. Ray K. Person, Foreman.

At a stated term, to wit: The February Term, A. D. 1934, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Thursday, the 15th day of March, in the year of our Lord one thousand nine hundred and thirty-four.

Present:

The Honorable: HARRY A. HOLLZER, District Judge.

United States of America, Plaintiff,)

)

vs.)

) No. 11752-H-Crim.

)

J. V. Spaugh, Harry M. Curry,)

et al. Defendants.)

(D. L. Hossack, Court Reporter, present during latter part of these proceedings.)

This cause coming before the Court for sentence of defendants J. V. Spaugh and Harry M. Curry, who are

present in court; Ernest R. Utley, Assistant U. S. Attorney, appearing for the Government; F. P. Doherty, Esq., appearing for defendant Spaugh; Ames Peterson, Esq., appearing for defendant Curry;

Motion in arrest of judgment is denied by the Court, and an exception is allowed; and no other legal grounds appearing why judgment should not be pronounced at this time, a statement is made to the defendants by the Court; and the Court thereupon pronounces sentence upon defendants Spaugh and Curry for the crime of which they stand convicted, viz: Violation of Section 37 of the Federal Penal Code, conspiracy to commit the crime of forging and uttering, etc., U. S. Liberty Bonds, and

It is the judgment of the Court that defendant J. V. Spaugh be imprisoned for the period of eighteen (18) months in the U. S. Penitentiary at McNeil Island, Washington, and that he pay unto the United States of America a fine in the sum of \$1000.00 and stand committed until paid; and

It is the judgment of the Court that defendant Harry M. Curry be imprisoned for the period of two (2) years in the U. S. Penitentiary at McNeil Island, Washington, and that he pay unto the United States of America a fine in the sum of \$1000.00 and stand committed until paid. * * * * *

At a stated term, to wit: The February Term, A. D. 1934, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Thurs-

day, the 15th day of March, in the year of our Lord one thousand nine hundred and thirty-four.

Present:

The Honorable: HARRY M. HOLLZER, District Judge.

United States of America, Plaintiff,)	
)	
vs.	)	No. 11757-H-Crim.
)	
Harry M. Curry, et al., Defendants.)	

This cause coming on for sentence of defendant Harry M. Curry, who is present in court; Ernest R. Utley, Assistant U. S. Attorney, appearing for the Government; Ames Peterson, Esq., appearing for defendant Curry;

No legal grounds appearing why judgment should not be pronounced at this time, a statement is made to the defendant by the Court; and the Court now pronounces sentence upon the defendant for the crime of which he stands convicted, viz: violation of Section 29 of the Federal Penal Code, forging, uttering, etc. U. S. Liberty Bonds, and

It is the judgment of the Court that defendant Harry M. Curry be imprisoned for the period of two (2) Years in the U. S. Penitentiary at McNeil Island, Washington upon each of the counts of the Indictment, said sentences to run concurrently, each with the other, and concurrently with the sentence pronounced in case No. 11752-H-Criminal. * * *

IN THE UNITED STATES CIRCUIT COURT OF
APPEALS FOR THE NINTH CIRCUIT.

	)	No. 11752-H
UNITED STATES OF AMERICA,	)	# 11757 H
)	
	)	Plaintiff,
	)	PROPOSED
	)	BILL OF
vs.	)	EXCEPTIONS
	)	OF
J. V. SPAUGH, HARRY M.	)	DEFENDANTS
CURRY, et al.,	)	J. V. SPAUGH
	)	AND HARRY
Defendants.	)	M. CURRY
)	

BE IT REMEMBERED that an indictment was returned in the above entitled cause on the 29th day of November, 1933, and that thereafter, and on the 10th day of January, 1934, said cause came on regularly for trial on the issues raised by said indictment and the plea of not guilty thereto of the defendants, J. V. Spaug, Harry M. Curry, Jack Malowitz and Roscoe Clough, before the Hon. Harry A. Hollzer, judge presiding, sitting with a jury, the United States of America being represented by Assistant United States Attorneys Ernest R. Utley and J. J. Irwin, defendant J. V. Spaug being represented by his attorney, Frank P. Doherty, and defendant Harry M. Curry being represented by his attorney, Ames Peterson; thereupon the following proceedings and none other were had:

Assistant United States Attorney Ernest R. Utley then moved that the above cause, United States of America, Plaintiff, vs. Roscoe Clough, Harry M. Curry, J. V.

Spaugh, et al., No. 11752-H, be consolidated for trial with the following indictments, to-wit:

United States of America v. Roscoe Clough, being No. 11668-H, In the United States District Court for the Southern District of California, Central Division;

United States of America v. Roscoe Clough and Jack Malowitz, being No. 11751-H in said Court;

United States of America v. Roscoe Clough, Harry M. Curry and Jack Malowitz, being No. 11755-H in said Court;

United States of America v. Roscoe Clough, being No. 11756-H in said Court;

United States of America v. Roscoe Clough, Jack Malowitz and Harry M. Curry, being No. 11757-H in said court;

United States of America v. Roscoe Clough, being No. 11758-H in said court.

The defendant J. V. Spaugh objected to said consolidation on the grounds that he was not named as a defendant in any of said indictments sought to be consolidated and that the defendants were not identical in all of said indictments and that said consolidation was without authority in law and that the several charges set forth in said indictments constituted separate and distinct offenses which could not be properly joined, and that the consolidation of said indictments constituted an improper joinder.

The said motion of the Government to consolidate the above cause for trial with said indictments above referred to was granted and the objection of the defendant J. V.

Spaugh to such consolidation was overruled, to which ruling the defendant J. V. Spaugh then and there excepted.

Said indictments above referred to are set forth as follows:

No. 11668-H

Filed 9/13/33

Viol: Section 29 Federal Penal Code (18 USC 73)

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

THAT

ROSCOE CLOUGH
LEE SONNENBERG
JEWELL SENHOUSE, and
MARY ROUNDTREE,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about

the 1st day of August, A. D. 1933, in the County of Los Angeles, state, division aforesaid, and within the jurisdiction of the United States and of this Honorable Court, being then and there in the possession of a certain obligation and security of the United States, to-wit: a certain Fourth Liberty Loan four and one-fourth percent registered gold bond of 1933-1938, No. 640030, payable to Cordelia Nelson, did then and there knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made forged and counterfeited and did willingly aid and assist in the false making, forging and counterfeiting of a certain order, writing and assignment on the back of said bond, for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said obligation, bond and security is and then and there was in the words and figures as follows, -to-wit:

(Bond #640030, for \$1,000.00, photostatic copy.)

the reverse side of which said obligation, bond and security is, and then and there was in the words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants at the time and place aforesaid, did knowingly, wilfully, unlawfully and feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said obligation, bond and security the name "Cordelia Nelson", the payee of the said obligation, bond and security.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, LEE SONNENBERG, JEWELL SENHOUSE and MARY ROUNTREE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore to-wit: on or about the 1st day of August, A. D. 1933, in the County of Los Angeles, State, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, being then and there in the possession of a certain obligation and security of the United States, to-wit: a certain Fourth Liberty Loan four and one-fourth percent registered gold bond of 1933-1938, No. 640030, payable to Cordelia Nelson, did then and there knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true, a certain order, writing and assignment on the back of said bond, which said obligation, bond and security is, and then and there was in the words and figures as set out in count one of this indictment on page two hereof, lines 9 to 32 inclusive, which said bond and figures are incorporated in this count as if again set forth at length, and the reverse side of which said obligation, bond and

security is, and then and there was, in the words and figures as set out in count one of this indictment on page three hereof, lines three to thirty inclusive, which said words and figures are incorporated in this count as if again set forth at length, with intent then and there to defraud the United States, they, the said defendants, then and there well knowing the said order, writing and assignment to be false, forged and countefeited as aforesaid.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, LEE SONNENBERG, JEWELL SENHOUSE and MARY ROUNTREE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 1st day of August, A. D. 1933, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, being then and there in the possession of a certain obligation and security of the United States, to-wit: a certain Fourth Liberty Loan four and one-fourth percent registered gold bond of 1933-1938, No. 640031, payable to Cordelia Nelson, did then and there knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be

falsely made forged and counterfeited and did willingly aid and assist in the false making, forging and counterfeiting of a certain order, writing and assignment on the back of said bond, for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000), which said obligation, bond and security is and then and there was in the words and figures as follows, to-wit:

(Bond #640031, for \$1,000.00, photostatic copy.)

the reverse side of which said obligation, bond and security is, and then and there was in the words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said obligation, bond and security, the name "Cordelia Nelson", the payee of the said obligation, bond and security.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, LEE SONNENBERG, JEWELL SENHOUSE and MARY ROUNTREE,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 1st day of August, A. D. 1933, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, being then and there in the possession of a certain obligation and security of the United States, to-wit: a certain Fourth Liberty Loan four and one-fourth per cent registered gold bond of 1933-1938, No. 640031, payable to Cordelia Nelson, did then and there knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true, a certain order, writing and assignment on the back of said bond, which said obligation, bond and security is, and then and there was in the words and figures as set out in count three of this indictment on page 8 hereof, lines 1 to 27 inclusive, which said words and figures are incorporated in this count as if again set forth at length, and the reverse side of which said obligation, bond and security is, and then and there was in the words and figures as set out in count three of this indictment on page 9 hereof, lines 1 to 27 inclusive, which said words and figures are incorporated in this count as if again set forth at length, with intent then and there to defraud the United States, they, the said defendants, then and there well knowing the said order, writing and assignment to be false, forged and counterfeited as aforesaid.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL,
 United States Attorney
 WM. FLEET PALMER,
 Assistant United States Attorney.

No. 11751-H

Filed 11-29/33

Viol: Section 29 Federal Penal Code (18 USC 73)
 IN THE DISTRICT COURT OF THE UNITED
 STATES IN AND FOR THE SOUTHERN
 DISTRICT OF CALIFORNIA
 CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

THAT

JACK MALOWITZ,
 ROSCOE CLOUGH,
 FRED C. MACOMBER, and
 MARY E. MARTIN, whose true name is to the
 grand jurors unknown,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom

is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 22nd day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #545294, for \$1,000.00, photostatic copy.)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond).

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing, the

name "Mrs. Mary E. Martin", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT.

And the grand jurors aforesaid upon their oath aforesaid, do further present:

That JACK MALOWITZ, ROSCOE CLOUGH, FRED C. MACOMBER and MARY E. MARTIN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 22nd day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #545293, for \$1000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and endorse on the back of the said order and writing, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing, the name "Mrs. Mary E. Martin", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT

And the grand jurors aforesaid upon their oath aforesaid, do further present:

That JACK MALOWITZ, ROSCOE CLOUGH, FRED C. MACOMBER and MARY E. MARTIN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 22nd day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the juris-

diction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #545292, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing, the name "Mrs. Mary E. Martin", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That JACK MALOWITZ, ROSCOE CLOUGH, FRED C. MACOMBER, and MARY E. MARTIN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 22nd day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(\$1,000.00 bond No. 545291)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing, the name "Mrs. Mary E. Martin", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FIFTH COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That JACK MALOWITZ, ROSCOE CLOUGH, FRED C. MACOMBER and MARY E. MARTIN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 24th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true four false, forged and counterfeited orders and writings in words and figures as set out in count one of

this indictment on pages two and three, and count two of this indictment on pages six and seven, and count three of this indictment on pages ten and eleven, and count four of this indictment on pages fourteen and fifteen, which said words and figures are incorporated in this count as if again set forth at length, which said orders and writings are indorsed on the back thereof as follows: "Mrs. Mary E. Martin", with intent then and there to defraud the United States, they, the said defendants, then and there well knowing the said orders and writings to be false, forged and counterfeited as aforesaid;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL,
United States Attorney.
WM. FLEET PALMER,
Assistant United States Attorney.

No. 11755-H

Filed 11/29/33

Viol: Section 29 Federal Penal Code (18 USC 73)

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three;

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

That JACK MALOWITZ, HARRY M. CURRY, ROSCOE CLOUGH and ED WIDEMAN, whose true name is to the grand jurors unknown,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 26th day of June, 1933, at Los Angeles, County of Los Angeles, State, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1000.00), which said order and writing is, and then and there was, in words

(Bond #618611, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse and cause and procure to be falsely signed, forged and indorsed, and willingly aid and assist in the false signing, forging and indorsing, on the back of the said order and writing the name "Ed Wideman", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That JACK MALOWITZ, HARRY M. CURRY, ROSCOE CLOUGH and ED WIDEMAN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 26th day of June, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did know-

ingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #618610, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse and cause and procure to be falsely signed, forged and indorsed, and willingly aid and assist in the false signing, forging and indorsing, on the back of the said order and writing the name "Ed Wideman", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That JACK MALOWITZ, HARRY M. CURRY, ROSCOE CLOUGH and ED WIDEMAN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 26th day of June, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #618609, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse and cause and procure to be falsely signed, forged and indorsed, and willingly aid and assist in the false signing, forging and indorsing, on the back of the said order and writing the name "Ed Wideman", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That JACK MALOWITZ, HARRY M. CURRY, ROSCOE CLOUGH and ED WIDEMAN, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names, are and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 26th day of June, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, an aid and assist in uttering and publishing as true three false, forged and counterfeited orders and writings in words and figures as set out in count one of this indictment on page two and three, and count two of

this indictment on page six and seven, and count three of this indictment on pages ten and eleven, which said words and figures are incorporated in this count as if again set forth at length, which said orders and writings are indorsed on the back thereof as follows: "Ed Wideman", with intent then and there to defraud the United States, they, the said defendants then and there well knowing the said orders and writings to be false, forged and counterfeited as aforesaid;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL

United States attorney

WM. FLEET PALMER

Assistant United States Attorney.

No. 11756-H

Filed 11/29/33

Viol: Section 29 Federal Penal Code (18 USC 73)

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION.

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the South-

ern District of California, and inquiring for the Southern District of California, upon their oath present:

THAT

ROSCOE CLOUGH and WILLIAM N. HAWLEY, whose true name is to the grand jurors unknown,

hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 21st day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #479803, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse, and cause and procure to be falsely signed, forged and indorsed, and did willingly aid and assist in the false signing, forging and indorsing on the back of the said order and writing the name "William N. Hawley", the payee of the said order and writing:

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. .

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and WILLIAM N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 21st day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and

receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #479802, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse and cause and procure to be falsely signed, forged and indorsed, and did willingly aid and assist in the false signing, forging and indorsing on the back of the said order and writing the name "William N. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

COUNT THREE.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and WILLIAM N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern

District of California, heretofore, to-wit: on or about the 21st day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true false, forged and counterfeited orders and writings in words and figures as set out in count one of this indictment on pages two and three, and count two of this indictment on pages six and seven, which said words and figures are incorporated in this count as if again set forth at length, which said orders and writings are indorsed on the back thereof as follows: "William N. Hawley", with intent then and there to defraud the United States, they, the said defendants, then and there well knowing the said orders and writings to be false, forged and counterfeited as aforesaid;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL,

United States Attorney.

WM. FLEET PALMER,

Assistant United States Attorney.

No. 11757-H

Filed 11-29-33

Viol: Section 29 Federal Penal Code (18 USC 73)

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three.

The grand jurors for the United States of America, impaneled and *and* sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

That

ROSCOE CLOUGH, JACK MALOWITZ,
HARRY M. CURRY and H. C. HAW-
LEY, whose true name is to the grand
jurors unknown,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully

falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #746926, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing the name "H. C. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, JACK MALOWITZ, HARRY M. CURRY and H. C. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #746925, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously

and falsely, and with the intent aforesaid, sign, forge and indorse, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing the name "H. C. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, JACK MALOWITZ, HARRY M. CURRY and H. C. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are

to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #746924, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse, and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of the said order and writing the name "H. C. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FOURTH COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH, JACK MALOWITZ, HARRY M. CURRY and H. C. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as

herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #746923, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse and cause and procure to be signed, forged and indorsed, and willingly aid and assist in the signing, forging and indorsing on the back of said order and writing the name "H. C. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FIFTH COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present.

That ROSCOE CLOUGH, JACK MALOWITZ, HARRY M. CURRY and H. C. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true four false, forged and counterfeited orders and writings in words and figures as set out in count one of this indictment on pages two and three, and count two of this indictment on pages six and seven, and count three of this indictment on pages ten and eleven, and count four of this indictment on pages fourteen and fifteen, which said words and figures are incorporated in this count as if again set forth at length, which said orders and writings are indorsed on the back thereof as follows: "H. C. Hawley", with intent then and there to

defraud the United States, they, the said defendants, then and there well knowing the said orders and writings to be false, forged and counterfeited as aforesaid.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL,
United States Attorney.
WM. FLEET PALMER,
Assistant United States Attorney.

No. 11758-H

Filed 11/29/33

Viol: Section 29 Federal Penal Code (18 USC 73).

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION.

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-three;

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present:

THAT

ROSCOE CLOUGH, and W. N. HAWLEY,
whose true name is to the Grand Jurors
unknown,

hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #462452, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

That is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing the name "W. N. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and W. N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #462453, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing the name "W. N. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and W. N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counter-

feited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #462454, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order, and writing the name "W. N. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and W. N. HAWLEY, whose true name is to the grand jurors unknown, here-

inafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of One Thousand Dollars (\$1,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #462455, for \$1,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing the name "W. N. Hawley", the payee of the said order and writing:

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

FIFTH COUNT

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and W. N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names, other than as herein stated, are to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, falsely and feloniously make, forge and counterfeit, and cause and procure to be falsely made, forged and counterfeited, and did willingly aid and assist in the false making, forging and counterfeiting, of a certain order and writing for the purpose and with the intent of obtaining and receiving and of enabling certain other persons whose names are to the grand jurors unknown, to obtain and receive from the United States of America and its officers and agents the sum of Five Thousand Dollars (\$5,000.00), which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Bond #526632, for \$5,000.00, photostatic copy)

the reverse side of which said order and writing is, and then and there was, in words and figures as follows, to-wit:

(Photostatic copy of reverse side of bond)

that is to say, the said defendants, at the time and place aforesaid, did knowingly, wilfully, unlawfully, feloniously and falsely, and with the intent aforesaid, sign, forge and indorse on the back of the said order and writing the name "W. N. Hawley", the payee of the said order and writing;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SIXTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That ROSCOE CLOUGH and W. N. HAWLEY, whose true name is to the grand jurors unknown, hereinafter called the defendants, whose full and true names are, and the full and true names of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 17th day of July, 1933, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously utter and publish as true, and cause

to be uttered and published as true, and aid and assist in uttering and publishing as true, false, forged and counterfeited orders and writings in words and figures as set out in count one of this indictment on pages two and three, and count two of this indictment on pages six and seven, and count three of this indictment on pages ten and eleven, and count four of this indictment on pages fourteen and fifteen, and count five of this indictment on pages eighteen and nineteen, which said words and figures are incorporated in this count as if again set forth at length, which said orders and writings are indorsed on the back thereof as follows: "W. N. Hawley", with intent then and there to defraud the United States, they, the said defendants, then and there well knowing the said orders and writings to be false, forged and counterfeited as aforesaid.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PEIRSON M. HALL

United States Attorney.

WM. FLEET PALMER

Assistant United States Attorney

Thereupon the causes as so consolidated proceeded to trial and evidence was introduced by the government and admitted by the court in support of the various counts in each and all of the consolidated indictments. The evidence introduced under indictment #11752-H, as regards the defendants J. V. Spaugh and Harry M. Curry, was conflicting and controverted by the facts and evidence in-

troduced by the defendants J. V. Spaugh and Harry M. Curry but was amply sufficient to support the charges and verdict upon which said J. V. Spaugh and Harry M. Curry were found guilty in said cause No. 11752-H, known as the conspiracy indictment. The evidence introduced under indictment No. 11757-H as regards the defendant Harry M. Curry was conflicting and controverted by the facts and evidence introduced by the defendant Harry M. Curry but was amply sufficient to support the charges and verdict upon which said Harry M. Curry was found guilty in said cause No. 11757-H. A general objection was made on the part of J. V. Spaugh that all evidence offered in support of the indictments other than #11752-H, the conspiracy indictment, was hearsay, incompetent, irrelevant and immaterial and not within the issues of the case so far as J. V. Spaugh was concerned. It was agreed that this objection, which was overruled and exception noted, need not be repeated during the introduction of said testimony in support of the other indictments but was deemed to be repeated and overruled and exception noted without the necessity of its repetition.

Thereafter and at the close of all the evidence arguments were made for and on behalf of the defendants J. V. Spaugh, Harry M. Curry and the other defendants. At the conclusion of all arguments the court instructed the jury as follows:

LOS ANGELES, CALIFORNIA
SATURDAY, JANUARY 27, 1934
11:10 O'CLOCK A. M.

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THE COURT: Gentlemen of the jury, we have arrived at that stage of the trial where we are to consider the rules or the guide posts that should aid us in deliberating upon what verdict should be returned in the consolidated trial of the several cases which have been heard during these past two weeks and more.

Of course, all cases are important, cases which involve the liberty of an individual. They are important both to the accused and to organized society which we commonly term government.

The individual citizen is charged with no higher duty than that which he performs while engaged in serving as a trial juror, participating in the administration of justice.

The responsibility of the jurors is equal to that of the Judge presiding; each of us, however, having our own respected sphere of duty. And in these cases you, as well as the Court, have an important duty to discharge in the passing upon the guilt or the innocence of these men who stand on trial before you.

And unless we approach our respective responsibilities with due appreciation of what our duties imply, willingly and courageously discharging those duties, I repeat, unless we approach those duties in that spirit, we shall not merely have failed in the performance of our duty, but

indeed been false to our oaths, to the public trust that is imposed upon us.

You are instructed that by the finding of an indictment no presumption whatsoever arises to indicate that a defendant is guilty, or that he has had any connection with or responsibility for, the act charged against him. A defendant is presumed to be innocent at all stages of the proceeding until the evidence introduced on behalf of the Government shows him to be guilty beyond a reasonable doubt. And this rule applies to every material element of the offense charged. Mere suspicion will not authorize a conviction. A reasonable doubt is such a doubt as you may have in your minds when, after fairly and impartially considering all of the evidence, you do not feel satisfied to a moral certainty of the defendant's guilt. In order that the evidence submitted shall afford proof beyond a reasonable doubt, it must be such as you would be willing to act upon in the most important and vital matters relating to your own affairs.

Reasonable doubt is not a mere possible or imaginary doubt or a bare conjecture; for it is difficult to prove a thing to an absolute certainty.

You are to consider the strong probabilities of the case. A conviction is justified only when such probabilities exclude all reasonable doubt as the same has been defined to you. Without it being restated or repeated, you are to understand that the requirement that a defendant's guilt be shown beyond a reasonable doubt is to be considered in connection with and as accompanying all the instructions that are given to you.

In judging of the evidence, you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling of sympathy or other bias, to apply a strained construction, one that is unreasonable, in order to justify a certain verdict when, were it not for such feeling or bias, you would reach a contrary conclusion. And whenever, after a careful consideration of all of the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is a reasonable doubt as to whether the evidence is so balanced, the conclusion of innocence must be adopted.

You are the sole judges of the credibility of the weight which is to be given to testimony of the different witnesses who have testified upon this trial. A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies; by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity or his motives; or by contradictory evidence, or by showing that he has been convicted of a felony. In judging the credibility of the witnesses in this case, you may believe the whole or any part of the evidence of any witness, or may disbelieve the whole or any part of it, as may be dictated by your judgment as a reasonable man. You should carefully scrutinize the testimony given, and in so doing consider all of the circumstances under which any witness has testified, his demeanor, his manner while on the stand, his intelligence, the relation which he bears to the Government or the defendants, the manner in which he might be affected by the verdict and the extent

to which he is contradicted or corroborated by other evidence, if at all, and every matter that tends reasonably to shed light upon his credibility. If a witness is shown knowingly to have testified falsely on the trial touching any material matter, the jury should distrust his testimony in other particulars, and in that case you are at liberty to reject the whole of the witness' testimony.

You are instructed that a stipulation by and between counsel for the parties as to any of the facts is binding upon you and those facts shall be deemed by you as true in all respects and you are to rely thereon and are bound thereby in so far as those particular facts are concerned.

A witness false in one part of his testimony is to be distrusted in others. That is to say, you may reject the whole of the testimony of a witness who has wilfully sworn falsely as to a material point, and, being convinced that a witness has stated what is untrue, not as the result of mistake or inadvertence, but wilfully and with a design to deceive, you must treat all of his testimony with distrust and suspicion and reject it all, unless you shall be convinced notwithstanding the base character of the witness, that he has in other particulars sworn to the truth.

You are instructed that while a defendant in a criminal action is not required to take the stand and testify, yet, if he does so, his credibility and the value and effect of his evidence are to be weighed and determined by the same rules as the credibility and effect and value of the evidence of any other witness is determined. If a defendant elects to take the stand and testify in his own

behalf, his testimony is to be weighed in the same manner and measured according to the same standard as the testimony of any other witness, and the tests for determining credibility of witnesses as given you in another part of the instructions are to be applied to his testimony alike with that of all other witnesses.

A defendant is not required under the law to take the stand. He cannot be compelled to testify at all, and if he fails to do so, no inference unfavorable to him may be drawn from that fact, nor is the prosecution permitted in that case to comment unfavorably upon the defendant's silence.

Where a defendant elects to go upon the witness stand and testify, he then subjects himself to the same rule as that applying to any other witness, and if he has failed to deny or explain acts of an incriminating nature that the evidence of the prosecution tends to establish against him, such failure may not only be commented upon, but may be considered by the jury with all the other circumstances in reaching their conclusion as to his guilt or innocence, since it is a legitimate inference that, could he have truthfully denied or explained the alleged incriminating evidence against him, he would have done so.

The fact that the defendants are jointly tried is not to be taken by you as an indication that any of them are guilty of the offense charged, or that any of them were associated with any of the other defendants, or with any other person or persons, in the commission of any offenses; but you must consider the evidence as to these defendants separately. That is, before you can find any one guilty you must find that he is guilty beyond a rea-

sonable doubt, and separately, although they are jointly charged; you should consider the evidence as it applies to each one of them.

You are instructed that if the facts as established by the evidence in this case are as consistent with innocence as with guilt, you should find the defendants to whom such facts are as consistent with innocence as with guilt, not guilty. Unless there is substantial evidence of facts which exclude every other hypothesis but that of guilt, and where all of such substantial evidence is as consistent with innocence as with guilt, you should return a verdict of not guilty.

To establish a conspiracy to violate a criminal statute the evidence must convince that the defendants did something other than participate in the substantive offense which is the object of the conspiracy. There must be in addition thereto be proof of the unlawful agreement or conspiracy.

Before declarations of an alleged co-conspirator can be admitted, the conspiracy must be shown and it must also be shown that the defendant against whom the evidence is offered was a party to such conspiracy.

Without independent proof of the existence of the conspiracy and of the participation of a particular defendant therein, the act or declaration of an alleged co-conspirator relating to the conspiracy may not be proved for the purpose of proving the conspiracy or proving that any one of the defendants was a party thereunto, except as to the person making the declaration of the doing of such acts.

The declaration of one alleged co-conspirator to another is incompetent to establish the connection of a third person with the conspiracy.

It is also true, in cases of conspiracy, as in other criminal cases, that the defendant is presumed to be innocent until the contrary is shown by proof; and, where that proof is, in whole or in part, circumstantial in its character, the circumstances relied upon must so distinctly indicate the guilt of the accused as to leave no reasonable explanation of them which is consistent with the defendant's innocence.

I have stated to you that the offense may be established by circumstantial evidence; but circumstantial evidence, to warrant a conviction in a criminal case, must be of such a character as to exclude every reasonable hypothesis but that of guilt of the offense imputed to the defendant, or in other words, the facts proved must all be consistent with and point to his guilt only, and inconsistent with his innocence. The hypothesis of guilt should flow naturally from the facts proven, and be consistent with them all. If the evidence can be reconciled either with the theory of innocence or with guilt, the law requires that the defendant be given the benefit of the doubt, and that the theory of innocence be adopted.

An accomplice is one who is concerned with others in the commission of a crime. The usual test by which to determine whether or not one is an accomplice of a defendant on trial is whether or not he could be indicted and punished for the crime for which the defendant is charged.

In considering the testimony of the witnesses Fred C. Macomber, E. Lee Sonnenberg and Jewel Senhouse, you are required to estimate their credibility in the light of the fact that they have pleaded guilty and thus alleged that they were accomplices in the commission of the crimes here charged. An accomplice is one who, knowingly and voluntarily and with common intent with another person, unites with such person in the commission of an offense. The jury has the right to consider the testimony of an accomplice, and of those who have pleaded guilty, keeping in mind, however, that such testimony is to be weighed and scrutinized with great care, and that if it is not corroborated by other competent evidence, it should not be relied upon, unless, notwithstanding the fact that it stands alone, it produces in the minds of the jury a full and positive conviction of its truth.

The testimony of an accomplice, if fully believed by you, may be sufficient to support a verdict of guilt, even though such testimony is not corroborated.

Mere association and knowledge are not sufficient corroboration of the testimony of the accomplices. If you should conclude that the evidence of any particular witness, who is an accomplice, requires corroboration, then the corroboration must be such as to directly or by necessary inference, established facts and circumstances shown to exist, independently of the testimony of such accomplice, a participation of the defendants on trial or some of them in the alleged criminal acts.

It is for you to say whether you believe the accomplice or accomplices, or whether you consider them to be influenced by motives that make it unsafe to give credence to their testimony.

The fact that you have been instructed that the witnesses named were accomplices in the commission of the crimes charged in the indictment, is not to be taken by you as indicating that any of the defendants here on trial are guilty.

After a conspiracy has come to an end either by the accomplishment of the common design or by the parties abandoning the same, evidence of acts or declarations thereafter made by any of the conspirators can be considered only as against the person doing such acts or making such statements. The declarations or act of a conspirator not in execution of the common design is not evidence against any of the parties other than the one making such declaration.

J. V. Spough, one of the defendants in the conspiracy, case, is not a defendant in any of the other cases. The sole and only charge against J. V. Spough is that he joined in and became a part of a conspiracy as defined in the indictment. Therefore, in coming to your conclusion as regards Mr. Spough you must not consider any of the evidence introduced in the other cases charging the other defendants with the crimes as set forth in the other indictments but must confine yourselves entirely to the evidence introduced in support of the conspiracy charge.

Circumstantial evidence is equally available with direct evidence to prove the conspiracy, but suspicion or conjecture cannot take the place of evidence. Guilt must be established beyond a reasonable doubt and where the evidence is as consistent with innocence as with guilt no conviction can properly be had. Therefore, in weighing the evidence supporting the charge of conspiracy, in the event you find there existed a conspiracy, if the cir-

cumstances and evidence relied upon as regards defendant Spaugh is susceptible to two inferences, that is, one that defendant Spaugh is guilty of the crime of conspiracy and the other that he is innocent of the charge, you cannot convict him because the inference of innocence overcomes any inference of guilt. There must be proof beyond a reasonable doubt of the unlawful association, or confederation, that is, proof that there existed an unlawful criminal association between the defendants and that Mr. Spaugh had knowledge of the agreement and consciously and actively participated in it. It is not necessary that all of the alleged conspirators should have been a part of the conspiracy from the beginning, there may be a subsequent joining in a conspiracy; but a person to be held as subsequently joining in a conspiracy must be shown to have had knowledge of the conspiracy at the time of joining and have participated in it while having such knowledge. Therefore, if you should find beyond a reasonable doubt that a conspiracy existed, before you can find Mr. Spaugh guilty of the charge of conspiracy it must be shown by the evidence beyond a reasonable doubt that Mr. Spaugh had knowledge of the existence of the conspiracy at the time of joining it, assuming you find beyond a reasonable doubt that a conspiracy existed, and that defendant Spaugh having received knowledge and known of the existence of the conspiracy participated in it while having such knowledge. As pointed out above, defendant Spaugh is charged with the crime of conspiracy, that is, he is charged with knowingly entering into an unlawful agreement with the other defendants, as charged in the indictment, knowing at the time of the existence of the agreement and then having participated in the unlawful

undertaking while having such knowledge. The above may be established by circumstantial evidence, but to warrant a conviction in a criminal case, the circumstances must be of such a character as to exclude every reasonable conclusion but that of guilt of the offense imputed to defendant Spaugh. The circumstantial evidence must all be consistent with and point to defendant Spaugh's guilt only and must be inconsistent with his innocence. If the evidence against defendant Spaugh can be reconciled either with the theory of innocence or with guilt, then the law requires that the defendant be given the benefit of the doubt.

The defendant Spaugh has given proof of his previous good character as a law abiding citizen. The good character of the defendant, when proven, is itself a fact in the case. It is a circumstance tending in a greater or less degree to establish his innocence, and it is not to be put aside by the jury in order to ascertain if the other facts and circumstances, considered by themselves, do not establish his guilt beyond a reasonable doubt. If the defendant be proven of good character as a law abiding citizen, such good character may be sufficient to create or generate a reasonable doubt of his guilt, although no such would have existed but for such good character.

While in the interests of economy and the conservation of time all of these charges have been tried together, you are to be scrupulously careful to bear in mind that each defendant is entitled to his separate verdict at your hands and you should apply to him in considering his guilt or innocence only such testimony as clearly connects him with the specific offenses charged against him.

Your personal opinion as to the facts not proven cannot be properly considered as the basis of your verdict. You may believe as men that certain facts exist, but as jurors you can only act upon evidence introduced upon the trial and from that and that alone you must form your verdict.

Individual jurors should not compromise in any way the well-founded doubt that he may entertain any defendant with his fellow-jurors. You can only agree to convict or acquit, and you can properly convict only when the guilt of a defendant is clearly proven to the mind of any individual juror as to exclude any rational doubt of guilt.

You are further instructed not to suffer yourselves to be prejudiced against any defendant because of the fact that he is a defendant and charged with a crime. You must not let yourselves be led to convict any defendant for fear a crime may go unavenged, nor for the purpose of deterring others from a like offense, but must determine your verdict solely upon the evidence.

Mere suspicion, however strong, is not sufficient to justify a conviction in a criminal case. The only situation that will permit you to find a defendant guilty is where you feel an abiding conviction to a moral certainty of the truth of the charge. Nor can a defendant be convicted under the conspiracy charge unless you find such defendant actually and knowingly participated in such conspiracy and in so doing was actuated by a criminal intent. If you find that a defendant did certain acts and that he did them without any intent to commit a crime, then such defendant cannot be convicted.

In the offenses with which the defendants were charged there must be proved an actual and specific criminal intent to commit the acts charged and this criminal intent to defraud the United States Government is an essential part of the charge, and unless you find such criminal intent to be established beyond all reasonable doubt, then you cannot convict any defendant who did not act with this criminal intent.

Before the defendant Curry can be found guilty under the conspiracy indictment, you must find to a moral and beyond all reasonable doubt that he knowingly participated in the unlawful conspiracy alleged. You may find he did acts which, if he knew of the existence of the conspiracy would render him liable for conviction thereunder, but if you find he did such acts innocently and without criminal intent, then your verdict in his case must be not guilty under the conspiracy charge.

If you find that the defendant Harry Curry hypothecated certain bonds with the Bank of America or any other person or corporation but that he did so without any knowledge that said bonds had been stolen or without the knowledge that any name appearing on said bonds had been forged, then the fact that he actually did hypothecate said bonds would not alone justify a conviction.

Upon the question of intent upon the part of the defendant, you are instructed that the law presumes that every person intends the natural and ordinary consequences of his acts. Wrongful acts, knowingly or intentionally committed, cannot be justified on the ground of innocent intent. Ordinarily the intent with which a man does a criminal act is not proclaimed by him, and ordinarily there is no direct evidence from which the jury may be

satisfied from the declarations of the person himself, as to what he intended when he did a certain act.

Insofar as the transaction concerning the so-called Cordelia Nelson bonds, which transaction took place at the 7th and Central Branch of the Bank of America, no testimony or other evidence with reference to this transaction can be considered by you as against the defendant Curry, except insofar as the same may be applicable to the so-called conspiracy charge.

No evidence concerning the alleged forging or uttering of the so-called W. N. Hawley bonds can be used or considered by you against the defendant Curry except insofar as you may find from the evidence that it applies to the alleged conspiracy charge.

No evidence in connection with the forging or uttering of Liberty bonds concerning which testimony was given and evidence introduced in the transaction involving the purchase or the attempted purchase of the Pierce Arrow automobile can be used or considered by you for any purpose whatsoever as against any defendant except as to such defendant with respect to whom the same is applicable, and likewise, may not be considered as against the defendant Curry except insofar as you may find, from the evidence, that it applies to the alleged conspiracy charged.

There is no evidence in this case showing that the defendant Curry knew or had any dealings or transactions whatsoever with the defendant Spough or with the defendant Hinson or with the witness McGregor, and you are not to consider for any purpose as against him any of the evidence introduced in connection with the so-called Spough transactions, except insofar as you may find that

such evidence tends to show an alleged continuing conspiracy involving such defendant.

We have spoken of the rule requiring the establishment of the charge beyond a reasonable doubt.

Now, what is a reasonable doubt? A reasonable doubt is such a doubt as would exist in the mind of a reasonable man after a full, fair and careful examination and comparison of all the evidence. It is such a doubt as would cause a careful prudent man to pause and consider before acting in a grave and important affair of life. It is not, however, a mere possible doubt, because everything relating to human affairs and dependent upon moral evidence is open to some possible or imaginative doubt. Nor is it a mere captious or artificial doubt formed in the mind of the jury in order to escape the performance of a disagreeable duty. Nor does proof beyond a reasonable doubt mean absolute certainty. But a reasonable doubt, as the term is used in the course of this charge, must be one left in your minds after a candid and impartial weighing of all the evidence, due to its weakness or its insufficiency to produce that conviction or guilt in your mind. The jury is not allowed to create sources or materials of doubt by raising immaterial, fanciful suppositions and remote conjectures as to possible state of the facts different from those established by the evidence. You are not at liberty to disbelieve as jurors, if from all the evidence you would believe as men. Your oath imposes upon you no obligation to doubt where no doubt exists if no oath had been administered. If, after a careful and impartial examination and consideration of all the evidence in the case you can say that you feel an abiding conviction to a moral certainty of guilt, such an abiding

conviction to a moral certainty as you would be willing to act upon without hesitation in important matters of life as they concern yourselves, then you can no longer be said to entertain a reasonable doubt. If, on the other hand, you do not reach that abiding conviction to a moral certainty, such an abiding conviction as you would be willing to act upon in important affairs of life without hesitation as they concern yourselves, then you do entertain a reasonable doubt and it would be your duty to acquit.

The defendants here are charged with violating what is called Section 37 of the Criminal Code of the United States, the conspiracy section of the Criminal Code of the United States. Before I state to you that charge more in detail, I wish briefly to state to you what that law is. That section makes it an offense for any two or more persons to conspire to violate a law of the United States, and the offense is complete whenever any one of those persons commits what is called an overt act, that is, an act in furtherance of the object and purpose of the conspiracy or agreement thus to violate a law of the United States.

Briefly, the elements of the offense charged are three. First, the conspiracy, agreement or combination of two or more persons. Second the purpose to violate a law or commit an offense against the United States. Third, an overt act done by any one of the conspirators in furtherance of the object and purpose of the conspiracy, combination or agreement. Whenever those three elements are sustained and proved by the evidence beyond a reasonable doubt and the proof shows that the offense was committed

within the jurisdiction of this court, that is to say, in this instance, within the Southern District of California, then the crime under the law, will have been completely proved and established.

Now, what is the law whereby you may determine what is or is not an unlawful conspiracy, and how an unlawful conspiracy may be proved and established? I have already stated to you the elements, but it becomes necessary for me to enlarge thereon.

With respect to the first element, namely, the agreement, the combination, the conspiracy, the law is that a conspiracy is a combination of two or more persons by concerted action to accomplish a criminal or unlawful purpose, or some purpose, not in itself unlawful or criminal, by criminal or unlawful means. The common design or purpose, or the object to be accomplished, is the essence of this charge or rather of this element of the charge. And while it is necessary, in order to establish a conspiracy, to prove a combination of two or more persons to accomplish by concerted action the criminal or unlawful purposes, it is not necessary in order to prove a conspiracy that it should be proved that two or more persons met *together* at some specific time and place and entered into an explicit or formal agreement for an unlawful scheme or purpose, or that they did directly by acts or words or in writing state what the unlawful scheme was to be, or the details of the plan or the means by which the unlawful conspiracy was to be made effective. It is sufficient if two or more persons in any manner, or *through* any contrivance, positively or tacitly, come to a mutual understanding to accomplish an unlawful design.

In other words, where an unlawful act is sought to be effected, and two or more persons actuated by a common purpose of accomplishing that act, work together in any manner in furtherance of the unlawful scheme, every one of said persons becomes and is a member of the conspiracy, although the part he was to take in it may have been a subordinate one, limited to the performance of some specific acts, or even if that act to be performed by him was to be executed at a remote distance from the other conspirators.

A combination of two or more persons to effect an unlawful end is a conspiracy, said persons acting together under a common purpose and with a common object to accomplish the end thus designed. Any one—bear this in mind also because it is important in weighing the evidence in this case who, after a conspiracy is formed by two or more persons, learns of its existence and knowingly and intentionally joins therein thereby becomes as much a party thereto from that time on as if he had been one of the original conspirators, and adopts as his own the acts and conduct of the conspirators before he joined it. Furthermore, where several persons are proved to have combined together for the same unlawful purpose, any act done by any one of the parties in pursuance of the original concerted plan, and with respect to the common object is, in the contemplation of the law, the act of the whole combination of persons, or the entire number of conspirators, and therefore, the proof of such acts by any one out of the presence of the other, if in furtherance of or in order to execute and carry out the unlawful design, is the act of all just as much of those who were not present as of those who were actually present and participated therein.

Thus, you will perceive, the conspiracy to commit an offense, is the gist of the criminality under the law. The law regards the act of unlawful combination and confederacy as injurious to the peace of society and declares that such combination and confederacy of two or more persons to commit a crime requires restraints additional to those provided for the commission of the crime itself, and makes a crime of the conspiracy, with penalties and punishments distinctive from those prescribed for the crime which may be the object of the conspiracy. You will readily understand why this is true. A conspiracy becomes powerful and effective in the accomplishment of its illegal purpose in proportion to the numbers, power and strength of the combination to effect it. It is also true that, as a conspiracy involves two or a greater number of persons in a lawless enterprise, it is proportionally demoralizing to the well being of society and to the character of the men engaged in it, and as a consequence, to the peace and safety of the community in which they belong. And hence it is that Congress in its wisdom has passed this criminal conspiracy statute, making a criminal conspiracy to violate a law of the United States an offense in addition to and separate from the substantive crime itself.

Passing to another aspect of the case. How is a conspiracy to be proved? It is, of course, to be proved the same as any other fact is to be proved in a criminal trial. I have already said to you, and I repeat, that it is not necessary that you should find that two or more of these defendants met together and entered into an explicit or formal agreement or that they directly, or by words or writing stated what the unlawful scheme was to be, or the details of the plan, or the means by which that

unlawful combination was to be carried out and made effective. I have already said to you that it is sufficient if two or more of such persons in any manner or through any contrivance, positively or tacitly, come to a mutual understanding to accomplish the unlawful purpose or design. I have already said to you, and I repeat, that it is not necessary that all of the parties should have been members of the conspiracy at its inception, but that it will be sufficient if during its progress you shall find that some persons came into it and joined themselves up to it, if you should find that at the time they did it there had been a conspiracy in progress, and they joined in with knowledge of what that conspiracy or unlawful design and scheme was. Nor is it necessary that all the members of the conspiracy should know personally or individually all of the members thereof. It is sufficient if he knows one or more members thereof. If one joins an unlawful and continuing conspiracy with knowledge of its unlawful purpose and object, he becomes a conspirator along with the rest, and if, thereafter, an overt act has been committed, then he is guilty just the same as though he were in it from the very beginning.

The alleged conspiracy can be established only from the evidence here submitted.

You must find this conspiracy from the evidence here submitted. You may find it from the acts of the parties in the particular case, the nature and character of those acts, the declarations and statements of the several persons while performing acts in furtherance of the common enterprise; if such declarations were made and acts performed in furtherance thereof and before it was terminated or ended; the declarations and acts, whether verbal

or in writing, the character of the acts or of the series of acts, with accompanying circumstances—these and all of these are evidence from which, if it satisfies you beyond a reasonable doubt, the alleged common enterprise or conspiracy or agreement may be found to have been made or entered into. It is the evidence usually brought forward and upon which such findings by you are to be made. You will, therefore, investigate, weigh, and piece together all of the evidence brought forward here on behalf of the government and submitted to you by me for your consideration, and from this evidence you will determine whether or not two or more of these defendants did thus enter into an unlawful conspiracy, and how many—whether all of the defendants on trial or any number of the defendants on trial—were members of that conspiracy. If the evidence satisfies you beyond a reasonable doubt as to two or more of them, and as to all whom the evidence thus satisfies you beyond a reasonable doubt, you will, finding the other elements to which I shall advert later, be justified in returning a verdict of not guilty, otherwise you will not.

The indictment charging the conspiracy alleges that certain overt acts were committed by some one or other of these defendants, and of the alleged joint conspirators, in pursuance of and in execution of and to effect the object of such wilful, unlawful and felonious conspiracy. These overt acts are nine in number.

However, it is not necessary in order that the conspiracy, if found to have been in existence, shall become complete and therefore be a violation of the law, to prove all of the alleged overt acts. It is only necessary on the part of the Government to prove one overt act and it is

not necessary to prove all of the overt acts alleged in the indictments.

It will be sufficient to complete the offense if the proof establishes one of the alleged overt acts performed by any one of the conspirators while the conspiracy was in progress and after each of the alleged conspirators, as you may find, if you do find them to be such, became a member thereof.

The indictment in case No. 11752, charging the crime of conspiracy, alleges in effect that Roscoe Clough, Fred C. Macomber, Jack Malowitz, Mack A. Hinson, J. V. Spaug, E. Lee Sonnenberg, Jewel Senhouse, Harry M. Curry, and other defendants named in the indictment who are not on trial, prior to the dates of the commission of the overt acts hereinafter set forth, and continuously thereafter to and including the date of finding and presentation of this indictment, in the County of Los Angeles, did then and there knowingly, wilfully, unlawfully, corruptly and feloniously conspire, arrange and agree together and with each other and with divers other persons whose names are to the Grand Jurors unknown, to commit an offense against the United States of America and the laws thereof, the offense being to knowingly and wilfully, forge and counterfeit and cause to be falsely made, forged and counterfeited and willingly aid and assist in the forging and counterfeiting of certain orders and writings, for the purpose and with the intent of obtaining and receiving and of enabling other persons whose names are to the Grand Jurors unknown, to obtain and receive from the United States of America, and its officers and agents, sums of money, that is to say, they, the said defendants, would knowingly and wilfully and with the intent afore-

said, sign, forge and indorse, and procure to be signed, forged and endorsed, and willingly aid and assist in the signing, forging and endorsing on the back of the said order and writings, the names of the payees of the said orders and writings, and to thereafter knowingly and wilfully, utter and publish as true, and cause to be uttered and published as true, and aid and assist in uttering and publishing as true, said false, forged and counterfeited orders and writings, with intent to defraud the United States, knowing the said orders and writings to be false, forged and counterfeited; and said indictment further alleges that in furtherance of, and to effect the object, and purposes of said conspiracy, the hereinafter named defendants did commit the following overt acts in the County of Los Angeles:

1. That on or about the 17th day of July, 1933, defendants Roscoe Clough and W. N. Hawley, whose true name is to the grand jurors unknown, passed at the Farmers and Merchants National Bank in Los Angeles, California, five United States Liberty bonds, Fourth, four and one-fourth per cent, being number 462452 in the sum of One Thousand Dollars (\$1,000.00), number 462453 in the sum of One Thousand Dollars (\$1,000.00), number 462454 in the sum of One Thousand Dollars (\$1,000.00) and number 462455 in the sum of One Thousand Dollars (\$1,000.00), and number 52632 in the sum of Five Thousand Dollars (\$5,000.00).

2. That on or about the 22nd day of July, 1933, defendants Fred C. Macomber, Mary E. Martin whose true name is to the grand jurors unknown, Roscoe Clough and Jack Malowitz, indorsed and caused to be indorsed at the Farmers and Merchants National Bank in Los Ange-

les, California, four United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 545291, 545292, 545293, and 545294, in the sum of One Thousand Dollars (\$1,000.00) each;

3. That on or about the 17th day of July, 1933, defendants Roscoe Clough, Harry M. Curry, Jack Malowitz and H. C. Hawley whose true name is to the grand jurors unknown, passed to Charles Ehrlich at Los Angeles, California, four United States Liberty Loan Bonds, fourth, four and one-fourth per cent, being numbers 746923, 746924, 746925 and 746926, in the sum of One Thousand Dollars (\$1,000.00) each;

4. That on or about the 26th day of June, 1933, defendants Harry M. Curry, Jack Malowitz, Roscoe Clough and Ed Wideman whose true name is to the grand jurors unknown, passed at the International Branch of the Bank of America National Trust and Savings Association in Los Angeles, California, three United States Liberty Loan Bonds, Fourth, four and one-fourth per cent, being numbers 618609, 618610 and 618611, in the sum of One Thousand Dollars (\$1,000.00) each;

5. That on or about the 19th day of June, 1933, defendants Mack A. Hinson, alias Ed Wideman, and J. V. Spaugh, passed at the Bell Branch of the California Bank at Bell, California, one United States Liberty Loan Bond, Fourth, four and one-fourth per cent, being number 618608, in the sum of One Thousand Dollars (\$1,000.00):

6. That on or about the 20th day of July, 1933, defendants Roscoe Clough, J. V. Spaugh and Fred C. Macomber, alias Fred Clayton, alias J. H. Hartman, passed at the Bell Branch of the Bank of America Na-

tional Trust and Savings Association at Bell, California, one United States Liberty Loan Bond, Third, four and one-fourth per cent, being number 107676 in the sum of One Thousand Dollars (\$1,000.00), and four United States Liberty Loan bonds, Fourth, four and one-fourth per cent, being numbers 167813 in the sum of One Thousand Dollars (\$1,000.00), and numbers 130400, 156648 and 206348 in the sum of Five Hundred Dollars (\$500.00) each;

7. That on or about the 1st day of August, 1933, defendants Roscoe Clough, Jewel Senhouse, alias Cordelia Nelson, E. Lee Sonnenberg, and Mary Rountree, passed at the Seventh and Central Branch of the Bank of America National Trust and Savings Association at Los Angeles, California, two United States Liberty Loan bonds, Fourth, four and one-fourth percent, being number 640030 and 640031 in the sum of One Thousand Dollars (\$1,000.00) each;

8. That on or about the 21st day of July, 1933, defendant Roscoe Clough at the Paul G. Hoffman Company in Los Angeles, California, deposited as collateral for a note given for a Pierce Arrow automobile two United States Liberty Loan bonds, Fourth, four and one-fourth per cent, being numbers 479803 and 479802 in the sum of One Thousand Dollars (\$1,000.00) each;

9. That on or about the 1st day of August, 1933, at Los Angeles, California, defendant Mary Rountree indorsed a check made payable to her and signed by the defendant E. Lee Sonnenberg and Jewel Senhouse, alias Cordelia Nelson, in the sum of Eight Hundred Dollars (\$800.00).

It is the duty of the jury to decide from the evidence offered herein upon such conspiracy charge whether the defendants on trial, to-wit:

Roscoe Clough, Jack Malowitz, J. V. Spaugh, Harry M. Curry, or any of them, be guilty or not guilty of this charge.

The section of the code under which the defendants named in the various indictments for forgery are being prosecuted provides, in so far as applicable to the offense therein charged, as follows: "Whoever shall falsely make alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly aid, or assist in the false making, altering, forging, or counterfeiting, any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money; or whoever shall utter or publish as true, or cause to be uttered or published as true, any such false, forged, altered, or counterfeited deed, power of attorney, order, certificate, receipt, contract, or other writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited shall be punished as provided by law.

The court directs your attention to the fact that the first part of the above-quoted section deals with the false making, altering, forging or counterfeiting or with one who willingly aids or assists in the false making, altering, forging or counterfeiting of the various documents therein mentioned for the purpose of obtaining or receiving or of enabling any other person either directly or indirectly to obtain or receive from the United States

or any of their officers or agents any sum of money. Hereinafter in these instructions, for convenience and brevity, the court will refer to this part of the Code section as the forging of a document and the court will, for convenience and brevity hereafter, refer to the latter part of said section as the uttering and publishing of any of said forged documents:

The court further instructs you that the forging of assignments or transfers on the back of genuine registered Liberty bonds is such a document as is defined in the above-quoted section, provided that the forging of said document is done for the purpose of obtaining or receiving or of enabling any other person either directly or indirectly to obtain or receive from the United States or any of their officers or agents any sum of money, and the latter part of said section having to do with the uttering and publishing of forged instruments includes such an instrument as a forged assignment or transfer on a genuine *United* Registered Liberty bond, provided said forgery is uttered and published as true or caused to be uttered or published as true with intent to defraud the United States, when the person uttering and publishing it as true and genuine knows the same to be false, altered, forged or counterfeited.

Indictment No. 11668 charging the defendants, Roscoe Clough, Lee Sonnenberg, Jewel Senhouse and Mary Rountree in Count 1 thereof, with the forging of the name "Cordelia Nelson" on the back of the United States Registered Liberty bond in the name of Cordelia Nelson, No. 640030, and Count 2 thereof charges the same defendants with the uttering and publishing as true and genuine the said bond, bearing such forged endorsement

on the back thereof. Count 3 of said indictment charges the same defendants with the forging of the indorsement on the back of the United States Liberty bond in the name of Cordelia Nelson, No. 640031 and Count 4 thereof charges the same defendants with the uttering and publishing as true and genuine the said bonds, bearing such forged endorsement on the back thereof.

At the present time, the only defendant on trial in this charge is Roscoe Clough and in considering the guilt or innocence of this defendant you will confine yourselves to such evidence as has been offered directly applicable to these said Liberty bonds.

Indictment No. 11751 charges the defendants Jack Malowitz, Roscoe Clough, Fred C. Macomber and Mary E. Martin whose true name is to the grand jurors unknown, in Counts 1, 2, 3 and 4, with the crime of forgery of the assignment on the back of the four United States Registered Liberty bonds in the name of Mrs. Mary E. Martin. Count 1 refers to the United States Registered Liberty bond in the name of Mrs. Mary E. Martin No. 545294; and *Count 2* of said indictment refers to the United States Registered Liberty bond in the name of Mrs. Mary E. Martin No. 545293; and Count 3 of the indictment refers to the United States Registered Liberty bond in the name of Mrs. Mary E. Martin No. 545292, and Count 4 of said indictment refers to the United States registered Liberty bond in the name of Mrs. Mary E. Martin. No. 545291. Count 5 of said indictment charges said defendants with the uttering and publishing as true and genuine all four of the above-mentioned bonds, bearing such forged endorsements on the back thereof, with the intent to defraud the United States, the defendants at

said time knowing said orders and writings or endorsements to be forged, false and counterfeit. In this case the only defendants on trial at this time are Jack Malowitz and Roscoe Clough, and in determining their guilt or innocence you are instructed that it is your duty to confine your considerations to such evidence in said case as is directly applicable to the transactions pertaining to said bonds.

Indictment No. 11755 charges the defendants, Jack Malowitz, Harry M. Curry, Roscoe Clough and Ed Wideman whose true name is to the grand jurors unknown, in Counts 1, 2 and 3, with the forging of the assignments of three certain United States Registered Liberty bonds in the name of Ed Wideman. Count 1 thereof charges the forgery of the name "Ed Wideman" on the back of one of these bonds, to-wit, the bond in the name of Ed Wideman, No. 618611; and Count 2 charges said defendants with the forgery of the name "Ed Wideman" on the back of the bond No. 618610; and Count No. 3 charges said defendants with the forgery of the assignment of the bond No. 618609, and Count 4 of said indictment charges said defendants with uttering and publishing as true and genuine said orders and assignments of the three aforementioned Wideman bonds bearing such forged endorsements, with intent to defraud the United States, said defendants knowing the said orders and writings or endorsements to be false, forged and counterfeited.

The only defendants on trial now for the charges involved in this indictment are Jack Malowitz, Harry M. Curry and Roscoe Clough.

In determining the guilt or innocence of these defendants it is your duty to take into consideration only such

testimony as may have a direct bearing upon the bonds mentioned in said indictment.

In this connection you are further instructed not to allow yourselves to become confused with these bonds, the numbers of which have already been given you, with the other United States Registered Liberty bond in the name of Ed Wideman, No. 618608. It should be further called to your attention that all of the above-mentioned United States Registered Liberty bonds referred to in the indictments of forgery hereinbefore mentioned, are bonds in the sum of \$1,000.00.

Indictment No. 11756 charges the defendants Roscoe Clough and W. N. Hawley whose true name is to the grand jurors unknown, in Counts 1, 2, 3, 4 and 5, with the crime of forgery of the assignments on five separate United States Registered Liberty bonds in the name of W. N. Hawley, and Count 6 of said indictment charges said defendants with the crime of uttering and publishing as true and genuine the aforementioned bonds, bearing such forged endorsements, with intent to defraud the United States, said defendants knowing the said orders and writings or endorsements to be false, forged and counterfeited. The only defendant on trial in this indictment charges the forgery of the assignment of the United States Liberty bond in the name of W. N. Hawley, No. 462452; Count 2 of said indictment charges said defendant Roscoe Clough with the forgery of the assignment of the United States Registered Liberty bond in the name of W. N. Hawley, No. 462453; Count 3 of said indictment charges the defendant Roscoe Clough with the forgery of the assignment of the United States Registered Liberty bond in the name of W. N. Hawley, No.

462454, and Count 4 of said indictment charges the defendant Roscoe Clough with the forgery of the assignment of a United States Registered Liberty bond in the name of W. N. Hawley, No. 462455, each of said registered Liberty bonds in the aforementioned counts being in the sum of \$1,000.00; and Count 5 of said indictment charges the defendant Roscoe Clough with the forgery of the assignment of United States Registered Liberty bond in the name of W. N. Hawley, No. 52632, said bond being in the sum of \$5,000.00. In determining the guilt or innocence of this defendant upon said charge, you are to take into consideration only such evidence offered herein as is applicable to the alleged forgery of said United States Registered Liberty bonds herein mentioned, and the alleged uttering and passing as true and genuine of said bonds.

Indictment No. 11757 charging the defendant Roscoe Clough, Jack Malowitz, Harry M. Curry and H. C. Hawley whose true name is to the grand jurors unknown, in Counts 1, 2 3 and 4, with the forgery of the assignment of four United States Registered Liberty bonds, each in the sum of \$1,000.00 and in the name of H. C. Hawley, and Count 5 of said indictment charges each of said defendants with the uttering and publishing as true, with the intent to defraud the United States, of the alleged forged orders and writings endorsed on the back of the said H. C. Hawley bonds, well knowing said orders and writings or endorsements to be false, forged and counterfeited. The only defendants on trial in this indictment at present are Roscoe Clough, Jack Malowitz and Harry M. Curry, and the number of the bond in Count 1 of said

indictment is 746926; the number of said bond in Count 2 of said indictment is 746925, and the number of bond referred to in Count 3 of said indictment is 746924, and the number of the bond in Count 4 of said indictment is 746923; and in determining the guilt or innocence of the defendants charged in said indictment, it is your duty to take into consideration only such evidence as has been offered respecting the alleged forgery of the assignments of said Liberty bonds and the alleged uttering and publishing as true of said Liberty bonds by said defendants, or any of them, with the intent to defraud the United States.

Indictment No. 11758 charges the defendant Roscoe Clough and William N. Hawley whose true name is to the grand jurors unknown, in three counts. The only defendant on trial here is the defendant Roscoe Clough. The first two counts of said indictment charge the defendant Roscoe Clough with the forgery of the assignment of two United States Registered Liberty bonds in the name of William N. Hawley, said bonds being in the sum of \$1,000.00 each, and the bond referred to in the second count of the indictment being No. 479802. Count 3 of said indictment charges the uttering and publishing as true and genuine of said alleged forged assignments with the intent then and there to defraud the United States, the said defendant then and there well knowing said orders and writings to be false, forged and counterfeited. In determining the guilt or innocence of said defendant on said counts, it is your duty to take into consideration only such evidence as may be applicable to the alleged forgery of the assignments and the alleged uttering and publishing

as true and genuine said Liberty bonds, with the intent to defraud the United States.

Forging an assignment on a genuine registered Liberty bond is the forging of an instrument covered in the definition of forgery already given you.

It is not essential, in order to constitute the crime of forgery, that there should have been a precise compliance with the mode prescribed for the transferring of such bonds.

In this connection you are further instructed that if you believe from the evidence, beyond a reasonable doubt, that the defendants, or any of them, charged in the respective forgery indictments, falsely made, altered, forged or counterfeited or caused or procured to be falsely made, altered, forged or counterfeited or willingly aided, or assisted in the false making, altering, forging or counterfeiting, of any of the assignments or transfers on said United States Liberty bonds set forth in the respective counts in the indictments, for the purpose of obtaining or receiving or of enabling any other person, either directly or indirectly, to obtain or receive from the United States or any of their officers or agents, any sum of money, it is your duty to find such defendant guilty of the acts wherein they are so charged, and in which the proof satisfies your mind of the guilt of such defendant beyond a reasonable doubt.

If you find from the evidence, beyond a reasonable doubt, that the defendants, or any of them, charged in any of the indictments herein, uttered or published as true, or caused to be uttered or published as true any such false, forged, altered or counterfeited assignment or transfer of a Liberty bond, with intent to defraud

the United States, knowing the same to be false, altered, forged or counterfeited, it is your duty to convict the defendants against whom said proof has been so offered in the indictment which charges the aforesaid facts.

Aiding or assisting in forging consists in the commission of any act having a tendency to forward or facilitate a forgery committed by another. The degree of aid or assistance is unimportant. If what is done is, in any manner, calculated to promote the forgery, the act comes within the statute. So taking measures to prevent surprise or detection, whilst the forgery is being committed would be aiding and assisting in its commission. Causing or procuring a forgery to be committed would be the use of any persuasion or influence inducing another to commit it. In this connection, you are further instructed that it is not necessary for a defendant to be actually present at the time of the commission of the offense in order to make such defendant responsible so long as he has either aided or assisted in the commission of the crime or, not being present, has encouraged and advised in its commission. This is true, whether it be actual forgery of the instrument with the intent to defraud the United States Government, or whether it be the uttering and publishing as true and genuine a forged instrument with the same intent.

One of the essential ingredients of the crime of forgery under the definition already given you, is that it was done for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money. However, it is not essen-

tial to a conviction that the United States Government or any of its officers or agents, actually be defrauded; nor is it necessary, in order to prove an intent to defraud the United States, that the forged instrument in question be actually presented to the United States, or any of its officers or agents. It is sufficient if the forgery was done for the purposes enumerated in the statute. If you find from the evidence, beyond a reasonable doubt, that a forgery was committed, by any of the defendants on trial, as alleged in any of the indictments, and that such forgery was done for the purposes enumerated in the statute, you will find such defendants guilty in such of the cases that you are so convinced, even though it may appear from the evidence that other persons, corporations or banks were defrauded by the act of those committing such forgery.

The intent or intention is manifested by the circumstances connected with the offense and the sound mind and discretion of the accused.

If you find from the evidence, beyond a reasonable doubt, that the defendants, or any of them, on trial for the crime of forgery, forged the instruments alleged to have been forged, or willingly aided or assisted in the forging of said instruments, for the purpose of enabling any person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money, such defendant or defendants, as the case may be, would be guilty of forgery, even though the person to whom said forged instrument was presented, was actually defrauded of a sum of money.

And you are further instructed that the words "any other person" includes an officer of a bank or the banking corporation itself.

Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal.

In this connection the jury is instructed that if you find and believe from the evidence, beyond a reasonable doubt, that the defendants herein, or any of them, are guilty of the crime herein charged against them, you should find such defendant or defendants as the case may be, guilty, whether you believe from the evidence that they directly committed the act constituting the offense or aided or abetted in its commission, or whether they, not being present at the time of the commission of the offense, advised and encouraged its commission.

The jurors are expected to agree upon a verdict where they can conscientiously do so. You are expected to consult one another in the jury room, and any juror should not hesitate to abandon his own view when convinced that it is erroneous. In determining what your verdict shall be, you are to consider only the evidence before you. Any testimony as to which *as* objection was sustained, and any testimony which was ordered stricken out must be wholly left out of your minds and disregarded.

The opinion of the Judge as to the guilt or innocence of a defendant, if directly or inferentially expressed in these instructions or at any time during the trial, is not

binding upon the jury. For to the jury exclusively belongs the duty of determining the facts. The law, you must accept from the Court as correctly declared in these instructions.

It is the province of the judge in a Federal Court to comment upon the evidence, at the same time admonishing the jury that what the Court has to say in that regard is in no way binding upon the jury; that in the final analysis the jurors have the exclusive right to determine the facts.

This case having occupied something better than two weeks and two or three days, it is not out of place that the Court render such assistance as it can in giving to the jurors at least its views concerning the evidence, bearing in mind, as we have previously stated, that what the Court has to say about the facts is purely advisory and the jurors are at liberty to disregard it.

Indictment No. 11,755 is the one which involves the alleged forgery of endorsements upon three so-called Ed Wideman bonds, and the uttering of these bonds with such forged endorsements as being genuine endorsements.

While we have stated the defendants on trial in this case are Clough, Curry and Malowitz, it is the view of the Court that the evidence is not sufficient to warrant a conviction as against the defendant Malowitz, and hence the Court instructs the jury to acquit the defendant Malowitz on the charge in this indictment.

And right here may we say, for your guidance, the forms of the verdict which will be handed to you have been so prepared as in our judgment will materially aid the jurors in differentiating between the several cases, and will indicate the names of the defendants involved and,

likewise, the names of the defendants who are actually on trial in such case, and will indicate the name of the payee on the bond or bonds involved with the bond numbers.

And then the form of the verdict is so arranged as to provide separately for the jury's verdict as to each defendant, and with respect to each count of any indictment separately.

In considering whether or not the evidence warrants a verdict of guilt or acquittal in this indictment, No. 11,755, you will concern yourselves only as to the defendants Clough and Curry. Because we have already stated the Court is instructing the jury to acquit Malowitz on that indictment.

You will recall, with reference to this indictment, the testimony, or the evidence, presented in the form of the stipulation of counsel to the effect that if certain officers of the Bank of America, International Branch, were produced in court, such officers would, in substance, testify that the Defendants Clough and Curry came over to the bank accompanied by a man who was introduced to one or more of the bank officials as Ed Wideman, the payee in these bonds.

You will recall that in the course of that transaction these bonds were used to obtain a loan, the amount thereof was deposited in what has been referred to here as Curry's client account.

You will also recall the evidence to the effect that in the *count* where this money was thus deposited the defendant Curry carried funds which he used for his personal obligations.

These is evidence not only of the defendant Curry as to what, if any, knowledge he had of any criminal connection with this transaction. But, likewise, various checks, many of these checks, the defendant Curry has explained, and we think to that extent satisfactorily, having been disbursed by him in payment of obligations of the Refiners Corporation, of which at that time he was an officer.

There are other checks, however, which have not been explained, as we appraise the evidence, as being issued in discharge of any obligations of the Refiners Corporation.

If you examine the numbers of these bonds you will find that the serial numbers thereof are in numerical order next succeeding another so-called Ed Wideman bond, which is one of the overt acts mentioned in the conspiracy indictment, and that bond, upon examining the same—by the way, it is Exhibit No. 30—the serial number 618608. In other words, the Ed Wideman bond which is involved as one of the overt acts of the conspiracy charge, is No. 618608, and the three bonds involved in this indictment, No. 11,755, run next in serial order.

And then you will recall the evidence to the effect that all of the Wideman bonds were stolen at one and the same time.

These are circumstances which are entitled to consideration in conjunction, of course, with all the evidence as to whether or not there is a connection criminal in its nature and tending to establish the charges not only in

indictment No. 11,755, but also in the alleged conspiracy charge.

We believe that the evidence shows, without contradiction that such bonds as were passed in connection with the transaction as described here during the trial, to the extent that they bore any endorsement, contained forged endorsements. In other words, somebody forged the names of the true owners of these bonds.

Our appraisal of the evidence is that no inference would be warranted to the effect that any one of these endorsements were genuine. So, in considering the evidence as to the guilt or innocence of the defendants Clough and Curry, in indictment No. 11,755, you have to start with stolen bonds, forged endorsements, in the names of the payees thereof, and the use of these bonds in connection with a loan transaction at one of the banks.

Curry tells us that he didn't know anything about the identity of the person who forged the name Wideman on these bonds. And that in participating in this transaction he was accommodating Clough.

In determining whether or not that explanation is true, you have the right to consider what the evidence shows as to what use was made of the money thereby obtained.

So far as the defendant Clough is concerned, the evidence stands uncontradicted that he at one time had these bonds, that he introduced as Ed Wideman somebody who was not Ed Wideman, the payee on these bonds.

In indictment No. 11,756, the only defendant on trial is Roscoe Clough. This indictment involves the W. N. Hawley bonds, five in number, four of these were of the

denomination of \$1,000 each and one of the denomination of \$5,000.

In determining the guilt or innocence of the defendant Clough with reference to this indictment you will naturally consider all the evidence. And in that connection you will recall the testimony of Mr. Hutchison, of the Farmers and Merchants National Bank, who testified, in substance, that Clough used these bonds to borrow \$8,300 from that bank, and that Clough is the man who introduced someone as W. N. Hawley, the payee of these bonds. And that the person thus introduced, while Clough was present, endorsed the name of the payee.

Now, the evidence shows very clearly that that endorsement was a forgery.

You will also remember the testimony of Mr. Mier and the other attorney, to the effect that he was the one who introduced Clough to Mr. Hutchison at the bank to enable Clough to use these bonds for the purpose of obtaining a loan at the bank.

In this connection you have a right to consider that the defendant Clough is shown by the evidence to have handled two other bonds belonging to this same payee which bonds are involved in indictment No. 11,758. and which latter two bonds were used by Clough in connection with arranging for the down payment on an automobile.

Then, too, you will remember the evidence to the effect that all of these W. N. Hawley, those involved in this indictment, No. 11,756, those involved in indictment No. 11,758, were stolen at one and the same time.

Referring again to indictment No. 11,758, which is the case in which the defendant Clough was alone on trial, and which involves the William N. Hawley bonds No. 479802 and 479803, you will recall the testimony of the automobile salesman, Mr. Boosing, relative to the use of these two bonds by the defendant Clough.

You will also recall the circumstances which attended that transaction, including the testimony to the effect that Clough directed a man by the name of Brazil to accompany Boosing for the purpose of having Brazil point out to Boosing who was to receive the automobile; that Boosing accompanied Mr. Brazil and when he arrived at the purported destination he was met by a woman named Miss Curry—but in no way related to the defendant Curry—who signed a purported contract for the purpose of that automobile in the name not that of herself, but in the name of another, and you will recall that the person in whose name this Miss Curry signed the contract testified that she had nothing to do with that transaction.

These are all circumstances which you are entitled to consider along with the rest of the evidence in determining whether or not the defendant Clough was guilty of the offense charged.

With reference to indictment No. 11,757, this indictment involves Clough, Curry and Malowitz for this trial.

I concerns the H. C. Hawley bonds, four in number, each of the denomination of \$1,000, these bonds which are in evidence here as Exhibits 1, 2, 3 and 4.

You will recall the testimony of the witness Ehrlich, to the effect that Curry, Clough and Malowitz participated in

conferences to persuade Ehrlich to come into some oil company project.

You will recall the testimony of Mr. Ehrlich to the effect that these same three defendants subsequently conferred with Ehrlich after he had invested several thousands of dollars, conferred with Ehrlich in an effort to keep Ehrlich from withdrawing his investment. And in that same connection, you will remember that Mr. Mier, the attorney, testified that he was present during at least one of the conferences where the efforts were made to induce Ehrlich to stay with the project.

Then there is the testimony of Ehrlich that these four H. C. Hawley bonds were delivered to him. Ehrlich says that Malowitz and Curry knew that fact.

I believe Mr. Curry denies having any knowledge of that transaction. Mr. Malowitz states he didn't know of it until after the bonds had been delivered to Ehrlich; that he only learned of it after he saw them in Ehrlich's hands.

These bonds purport to bear the endorsement of the payee, but the evidence shows very clearly that the endorsements were forged.

Ehrlich says that these bonds were handed to him by Clough during what might be called a recess in the conference, that is to say, Ehrlich testified to a conference taking place in what has been sometimes referred to as Curry's office, that while others were left in the so-called conference room, Ehrlich stepped to another room with Clough at the latter's request, and that the latter thereupon handed him these four H. C. Hawley bonds.

You will remember the testimony of Mr. Goodman, and the attorney, acting on behalf of Mr. Ehrlich, and also

the testimony of Mr. Mier, the attorney, representing the Refiners Corporation, to the effect that he was present when Ehrlich and Curry stepped back—when Ehrlich and Clough stepped back into the conference room and when a receipt was prepared with reference to those bonds.

Now, I believe that receipt—can counsel aid me in giving it—no, I don't think it was introduced.

MR. PETERSON: It was read into the record, your Honor.

THE COURT: Can we turn to that readyo?

MR. PETERSON: Yes, I can get it in just a moment.

It starts with—I have made a check mark on the transcript.

(Whereupon the Clerk handed the Court transcript given him by Mr. Peterson.)

THE COURT: That receipt read: "Received of Roscoe Clough four 4¼ \$1,000 gold bonds of 1933 to 1938, bearing numbers 7469, 74693, 74694 and 74695. I agree to return these bonds to you as soon as bona fide oil contracts is obtained for the Refiners Corporation for not less than 2500 barrels of crude oil per day.

"In the event that these 2500 barrels per day cannot be obtained within 30 days I am to retain the bonds as consideration for the payment of \$5,000 which I have made to the Trustee in Bankruptcy.

"I further consent that these bonds may be used, if necessary, as collateral for the purpose of securing the above mentioned crude oil contract or contracts, and in

the event the full amount of said contract is obtained the bonds are to be retained by me.

"I hereby deliver above mentioned bonds to you pursuant to above.

"Dated this 17th day of July, 1933".

It purports to be signed by Mr. Clough and Charles Ehrlich.

And Mr. Ehrlich states that it was signed by both of them.

We next come to indictment No. 11,751. In this case only the defendant Malowitz and Clough were on trial.

This indictment involves the four so-called Mary E. Martin bonds. In considering all the evidence in the case you will recall the testimony of Mr. Ehrlich relative to a conference that he said he had with Malowitz and Curry concerning the passing of these bonds.

However, the defendant Curry is not on trial in this case.

That is correct, isn't it, Mr. Utley?

MR. UTLEY: It is correct, with the exception that the transaction is involved in the conspiracy charged.

THE COURT: Well, so far as the subjective charge sets forth in the indictment, No. 11,751, which refers to the alleged forging or uttering of the forged endorsed bonds, Curry is at least not on trial. Malowitz and Clough are.

You will remember the testimony of Mr. Ehrlich concerning this, with reference where he said he, with Malowitz and Curry—you will remember the testimony of Malowitz in which he admitted that he inserted his name as transferee on these bonds—that he was present when

the bonds were handed over to Ehrlich. And this, Saturday, July 22, 1933.

Then you will recall the testimony of Mr. Fogg, the gentleman who introduced Macomber and a woman posing as Mary E. Martin to the Farmers & Merchants National Bank; the testimony of Mr. Fogg and one of the officers of the bank, to whom this woman was introduced as Mary E. Martin.

We think the evidence very clearly shows that the person who then appeared at the bank was not Mary E. Martin, the payee of these bonds, and the endorsements then made at the bank were forgeries.

Fogg and Hogan on the dates of these endorsements all tell us that these bonds were cashed at the Farmers & Merchants National Bank, some time on Saturday, July 22nd.

It is the belief of Mr. Fogg, if not others, that the endorsements were forged shortly before 12:00 o'clock noon.

We think the evidence very clearly shows that after those endorsements were forged they were taken away from the bank by this woman. Macomber has testified that Malowitz accompanied the woman as far as the entrance to the bank but stayed outside. And that on leaving the bank, on the way back, the woman returned or delivered the bond to Malowitz.

In any event, Malowitz admits having some activity with these bonds and we think his evidence does not show anything to the contrary but what those bonds were handled on Saturday, January 22nd by him in connection with the transaction with this man Ehrlich.

Ehrlich says he obtained one of these bonds from Malowitz there in Curry's office. Malowitz says that he received these bonds from Curry. He was merely accommodating Curry and others interested in this Refiners Corporation to the extent of inserting his name as transferee on those bonds, that he had no personal interest in the transaction, that he knows nothing about this woman who forged the name of Mary E. Martin.

You heard the testimony of Mr. Curry to the effect that Malowitz handed him the bonds some time that afternoon, that at the request of Malowitz Curry put them in his desk and later on that day, while this conference was going on, Ehrlich at the request of Malowitz, Curry, says he handed the bonds back to Malowitz.

We said a moment ago Curry is not involved in the indictment charging the alleged forgery of the endorsement of these bonds or the uttering of the same as genuine, but he is involved in the conspiracy case.

MR. PETERSON: I think—pardon me, your Honor, I think the use of that word “involved” is scarcely the proper word.

THE COURT: Perhaps it is well to correct it and say he is one of the defendants named in the conspiracy case.

MR. PETERSON: All right.

THE COURT: This transaction pertaining to the passing of the Mary E. Martin bonds is involved in one of the overt acts set forth in the conspiracy indictment.

And in considering the question of the guilt or innocence of the defendant Curry, with reference to the indictment charge, you have the right to consider all of the

evidence, including that which has been related here, with reference to what happened in Curry's office concerning the handling of those bonds.

And in weighing the testimony of witnesses, you are not restricted to the bald expressions of the witnesses, you are entitled to use your own judgment or good sense, not only as to where the truth lies but what are the reasonable and fair inferences from the evidence admitted here. And if an explanation given by a particular witness does not convince as being a truthful one, you may reject that explanation and adopt that inference in the facts and circumstances in evidence which your own sound judgment and common sense tell you is the reasonable and fair deduction to be made therefrom.

There is one other indictment to which reference is to be made, No. 11,668, The defendant Clough is alone on trial in that case.

It concerns the so-called Cordelia Nelson bonds. There were two in number.

Then in connection with your consideration of all the evidence that has bearing upon that transaction, you will recall the testimony of Sonnenberg and Mr. Senhouse, to the effect that it was Clough who procured someone to introduce Mrs. Senhouse as Cordelia Nelson at the Bank of America at Central and Seventh.

Mrs. Senhouse admits that she forged the name of Cordelia Nelson and the endorsing of these two bonds at the bank. She and Sonnenberg admit that they passed or uttered or published these bonds in connection with the transaction whereby \$1,600 were borrowed from the bank.

This money was deposited, according to the evidence, in a joint account of Sonnenberg and Mrs. Senhouse. However, she used the name, for that purpose of Cordelia Nelson.

You will recall the existence here, consisting of exhibits, which show at least as to some of them, that Clough participated in the benefits of the monies derived from that transaction, at least to the extent, if not for the full amount.

We said a moment ago that you are entitled to draw such inferences from the facts proved as they fairly and reasonably impart. So in weighing the evidence in this case you are entitled to draw such inferences as are fair and reasonable from the evidence adduced with respect to the conduct of any and all of the *defenses*.

And if such evidence, including such inferences, fairly and reasonably drawn therefrom prove to your minds, beyond a reasonable doubt, that any defendant on trial is guilty of the offense, or offenses, charged against him it will be your duty to return a verdict of guilty accordingly.

And, on the other hand, if the evidence does not establish conviction beyond a reasonable doubt in any of the *particular*, then the defendants concerned thereby are entitled to the benefit of such doubt and acquittal accordingly.

You are entitled to take into the jury room the indictments and such of the exhibits as you may request. The forms of verdicts likewise will be handed to you when you have retired.

Your first duty should be to elect a foreman and then to proceed to deliberate upon your verdict. When you

have agreed upon the verdict it should be filled out, signed and dated by your foreman, and returned to the Court.

Thereupon and on the 27th day of January, 1934, at the hour of 1:43 p. m., the jury retired to deliberate upon their verdict in the above cause and said consolidated indictments.

On Monday, January 29, 1934, at the hour of 12 o'clock noon after the jury had been deliberating approximately forty-six hours, the court recalled the jury and the following proceedings were had: (Rep. Tr. p. 1713 line 4.)

"THE COURT: Will you call in the jury?

"CRIER KRAUSE: Your Honor, the jury asks you to give them another chance to vote once more, please.

"THE COURT: Very well.

(Whereupon the jury entered the box at 12:15 P. M.)

"THE COURT: Is it stipulated that all members of the jury are in the box, all defendants in court with their counsel?

"MR. DOHERTY: So stipulated.

"MR. UTLEY: Yes, your Honor.

"THE COURT: The Court desires to address itself to the jury, through the Foreman, and will ask the Foreman to be careful not to report the nature of any verdict, if any, which thus far may have been agreed upon, but rather to confine the answers to the specific matters mentioned in the questions.

"There are a number of cases in which the jury is considering the rendition of separate verdicts and, in addition, in all but one of the cases there are several counts or separate and distinct charges involved.

“We will ask the foreman to indicate whether the jury has finished balloting.

“FOREMAN PERSON: Not in all cases. (Rep. Tr. p. 1713, lines 4-26.)

“THE COURT: Then, we will ask counsel whether there is any objection to inquiring as to which cases balloting is still being taken on.

“MR. DOHERTY: I have no objection, your Honor, of inquiring of the jury as to which cases they are still considering and upon which they have not as yet reached a verdict.

“MR. RAY: No objection on the part of defendant Clough, your Honor.

“MR. OHANNESIAN: No objection on the part of the defendant Malowitz.

“MR. PETERSON: I see no objection to that.

“THE COURT: Then, we will ask the Foreman, referring to case No. 11,668, in which only the defendant Roscoe Clough is involved and which refers, that is to say, not involved, but the only case in which there is but one defendant on trial, namely, Roscoe Clough, has the jury finished balloting with reference to all of the four counts of that case?

“FOREMAN PERSON: They have, your Honor. (Rep. Tr. p. 1714, lines 1-20.)

“THE COURT: Referring now to case No. 11,751, in which the only defendants on trial are Roscoe Clough and Jack Malowitz, and in which the indictment contains five separate counts, or charges, has the jury finished balloting in that case?

“FOREMAN PERSON: In case 11,751, we have finished (Rep. Tr. p. 1714, lines 21-26) balloting on it.

“THE COURT: In case No. 11,752, in which the defendants on trial are Roscoe Clough, Jack Malowitz, J. V. Spaug and Harry M. Curry, and which is the so-called conspiracy case, has the jury finished balloting in that?

“FOREMAN PERSON: They have not, your Honor.

“THE COURT: Then, turning to case No. 11,752—no, case No. 11,755, in which the defendants on trial are Roscoe Clough and Harry M. Curry, has the jury finished balloting on all of the counts in this case?

“FOREMAN PERSON: They have not, your Honor.

“THE COURT: Referring to case No. 11,756, in which the only defendant on trial is Roscoe Clough, and wherein the indictment contains three counts, has the jury finished balloting on that? (Rep. Tr. p. 1715, lines 1-26.)

“FOREMAN PERSON: They have, your Honor.

“THE COURT: Then taking up case No. 11,757, in which the defendants on trial are Roscoe Clough, Jack Malowitz and Harry M. Curry, which involves the H. C. Hawley bonds, has the jury finished balloting on that?

“FOREMAN PERSON: They have not, your Honor.

“THE COURT: In view of the fact that the trial of this case has occupied approximately three weeks, and also inasmuch as the instructions given by the Court to the jury have occupied approximately two hours or more in delivering the same, and having in mind also the fact that the jury was in court Saturday night, in the presence of the defendants and counsel, and propounded a number of questions, which at that time I answered, and likewise some additions made to the instructions, we decided to

ascertain whether the Court can be of any assistance to the jurors by way of any further instructions such as explaining some particular point of law, the meaning of any particular question of law, the application of any of the evidence to any particular question of law? And in that same connection the Court will give the jury this further instruction:

“The only mode, provided by our constitution and laws for deciding questions of fact in criminal cases, is by the verdict of a jury. In a large proportion of cases, and perhaps, strictly speaking, in all cases, absolute certainty cannot be attained or expected. Although the verdict to which a juror agrees must of course be his own verdict, the result of his own convictions, and not a mere acquiescence in the conclusion of his fellows, yet, (Rep. Tr. p. 1716, lines 1-26) in order to bring twelve minds to a unanimous result, you must examine the questions submitted to you with candor, and with a proper regard and deference to the opinions of each other. You should consider that the case must at some time be decided; that you are selected in the same manner, and from the same source, from which any future jury must be; and there is no reason to suppose that the case will ever be submitted to twelve men more intelligent, more impartial, or more competent to decide it, or that more or clearer evidence will be produced on the one side or the other. And with this view, it is your duty to decide the case, if you can conscientiously do so. In order to make a decision more practicable, the law imposes the burden of proof on one party or the other, in all cases. In the present case, the burden of proof is upon the United

States to establish every part of it, beyond a reasonable doubt; and if, in any part of it, you are left a reasonable doubt, the defendant is entitled to the benefit of such doubt. And, in conferring together, you ought to pay proper respect to each other's opinions, and listen, with a disposition to be convinced, to each other's arguments. And, on the one hand, if a majority are for acquittal, the minority ought seriously to ask themselves, whether they may not reasonably, and ought not to doubt the correctness of a judgment, which is not concurred in by (Rep. Tr. p. 1717, lines 1-26) most of those with whom they are associated; and possibly distrust the weight or sufficiency of that evidence which fails to carry conviction to the minds of their fellows. And, on the other hand, if much the larger number of your panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath.

"Now, may we inquire of the Foreman whether there is any question upon which the Court can be of any assistance?"

"FOREMAN PERSON: There is a question, your Honor.

"THE COURT: Will you state the question?"

"FOREMAN PERSON: Some of the jurors have just suggested that I should submit the question before reading it.

“THE COURT: That is to say, the Court should first read it?

“FOREMAN PERSON: Yes.

“THE COURT: If you will pass it up to the Court before it is read we will indicate whether or not counsel should see it. (Rep. Tr. p. 1718, lines 1-26.)

“FOREMAN PERSON: I have it in such form that you cannot read it. It was written at the last second and rewritten over the top of it.

“THE COURT: Suppose you be given another sheet of paper. Mr. Clerk, will you give him a sheet of paper?

“(Whereupon the Clerk handed Foreman Person a sheet of paper and he proceeded to write out the question referred to.)

“THE COURT: Have you prepared the question?

“FOREMAN PERSON: I have.

“(Whereupon the written question was handed to the Court.)” (Rep. Tr. p. 1719, lines 1-12.)

The defendants J. V. Spaugh and Harry M. Curry thereupon duly excepted to the following portion of the foregoing instruction:

“And, on the other hand, if much the larger number of your panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath.” (Rep. Tr. p. 1718, lines 4-12.) (Rep. Tr. p. 1723 line 9 to p. 1725 line 23.)

Thereupon and while the jury were still deliberating as to the guilt or innocence of the defendants Harry M. Curry and J. V. Spaugh and before the jury had reached a verdict as to said defendants Harry M. Curry and J. V. Spaugh, the court made the following inquiry of the jury: (Rep. Tr. p. 1719, line 21.)

“Without indicating just how many ballots have been for one way and how many ballots the opposite way, that is to say, without indicating just how many stand in any particular way, either for acquittal or otherwise, but merely giving the numbers voting one way as against the other way; for example, if in one case (Rep. Tr. p. 1719 lines 21-26) stands 6 to 6, without indicating anything further, or if another case the vote stands 8 to 4, without indicating how many stand for acquittal and how many for conviction, may we ask you to indicate first of all, how many ballots have been taken in 11,752, which is the so-called conspiracy charge.

“FOREMAN PERSON: Your Honor, the different number of ballots have been taken separately against the different defendants.

“THE COURT: Well, then, coming now to the last balloting, will you indicate the numerical division, without indicating how many voted for acquittal and how many voted otherwise.” (Rep. Tr. p. 1720, lines 1-13.)

The defendants J. V. Spaugh and Harry M. Curry thereupon objected to the said inquiry of the court, in which the court asked the jury to indicate the numerical division of the jury and how the jury was divided on the balloting. Said objection was overruled and defendants J. V. Spaugh and Harry M. Curry thereupon duly excepted to said ruling.

The court then made further inquiry of the jury as follows (Rep. Tr. p. 1721, line 10):

“THE COURT: Now, turning to case No. 11,752, may we inquire as to any balloting that still remains to be done, without indicating as to which defendant, but as to any balloting that still remains to be done—the numerical division with respect to such ballot.” (Rep. Tr. p. 1721, lines 10-14.)

The defendants J. V. Spaugh and Harry M. Curry thereupon objected to the said inquiry of the court, in which the court asked the jury to indicate the numerical division of the jury and how the jury was divided on the balloting. Said objection was overruled and defendants J. V. Spaugh and Harry M. Curry thereupon duly accepted to said ruling.

“FOREMAN PERSON: In the case of one defendant, the ballot is ten to two; in the case of another defendant it is eleven to one.

“THE COURT: Turning now to case No. 11,755, we understand balloting is still in progress there. Will you tell us what the numerical division is?

“MR. PETERSON: May the same objection be noted there, the same ruling and an exception, and also with reference to the third case which I assume your Honor will inquire about.

“THE COURT: Yes.

“FOREMAN PERSON: Did you want me to state as to how (Rep. Tr. p. 1721, lines 15-26) this related to counts also on those others?

“THE COURT: Well, in the conspiracy case there was only one count.

“Now as to case No. 11,755, as to count 1, will you tell us the numerical division?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: As to count 2?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: And count 3?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Count 4?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Coming now to case No. 11,757, will you tell us the numerical division as to count 1?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Count 2?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Count 3?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Count 4?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: Count 5?”

“FOREMAN PERSON: Eleven to one.

“THE COURT: That is all to which balloting is still in progress.” (Rep. Tr. p. 1722, lines 1-25.)

The defendants J. V. Spough and Harry M. Curry then and there objected to each and every inquiry made by the court as to how the jury were divided, which said objection was overruled and to which ruling the defendants J. V. Spough and Harry M. Curry then and there duly excepted.

The following proceedings were then had (Rep. Tr. p. 1726, line 1):

“The Court will read the question which the Foreman of the jury has submitted. We are not certain that the question is perhaps expressed as clearly as it might. We will read it first:

“‘Where, in a case a defendant is being tried on several counts, and it is the opinion of a juror that on each count, or a majority of them, the preponderance of evidence is on the side of guilt, but in no one count standing alone does the juror feel the preponderance sufficient to eliminate a reasonable doubt, is it right and proper that the juror, in considering the conspiracy count, sum up all the counts and bracket them together and thereby minimize the chance of innocence; or must the juror be satisfied in at least one count standing alone that there is guilt in that count beyond a reasonable doubt?’

“‘May we correct that—the last phrase is ‘that their guilt.’ We presume the juror means there is guilt in that count beyond a reasonable doubt.

“‘May we inquire to see if the Court understands the purport of that question?’

“‘Rather, first, the Court will answer it partially by this statement of the law: The statute declaring conspiracy to be a crime is a separate and distinct statute from the one declaring the forging, and so forth, of certain documents to be a crime. On the one hand (Rep. Tr. p. 1726, lines 1-26) the commission of the crime defined in the so-called forgery statute does not of itself establish beyond a reasonable doubt that one has violated the conspiracy offense or statute; and, conversely, the fact that one may have been guilty of violating the conspiracy statute does not of itself establish beyond a reasonable doubt that the same party has violated the so-called forgery statute.

“Applying that principle more closely to the cases on trial: One may be guilty of a violation of the conspiracy statute and still his guilt not be established beyond a reasonable doubt as to any one of the other charges; and conversely, one may be guilty of a violation of one of the so-called forgery charges and still his guilt not thereby be established beyond a reasonable doubt of having been guilty of the so-called conspiracy charge.

“What the Court has stated covers the question that is drafted here. We are not yet certain until we hear from the Foreman of the Jury.

“FOREMAN PERSON: Your Honor, I consider that your answer covers it exactly. (Rep. Tr. p. 1727 lines 1-21.)

“MR. UTLEY: May it please the Court, it is my thought that the nature of the question intended to convey the thought of whether or not, if there was evidence that a certain defendant participated in more than one overt act named in the conspiracy, whether or not the jury would have to consider those overt acts separately or whether or not, where two overt acts were done by one defendant, whether or not they could consider all evidence as against any one defendant pertaining to the conspiracy charge.

“MR. PETERSON: I think the juror said the Court has answered his question. It would seem to me that would cover it.

“FOREMAN PERSON: Some of the jurors thought that possibly you hadn't directly answered the question as to whether he should bracket these together and weigh

the evidence of all, if all of them did affect the conspiracy charge, or several of them affected the conspiracy charge.

“THE COURT: By your last question did we understand you to say that some jurors had some further questions that they thought the Court ought to enlighten them upon?”

“MR. DOHERTY: I think he referred to part of the same question, whether or not they could bracket all of the evidence affecting the substance of the offenses together and consider that as a part of the conspiracy.

“MR. UTLEY: I think really, what my understanding of the question is, that it referred to the counts. But on the conspiracy charge the overt acts are not counts. My thought was, from his question read, that what they (Rep. Tr. p. 1727, lines 22-26; p. 1728 lines 1-26) really wanted to know was if one defendant, for instance, participated, or there was evidence that he participated in more than one overt act, could they consider all the evidence respecting that particular defendant together as evidence against him in the conspiracy charge, or must they segregate it. In other words—” (Rep. Tr. p. 1729, lines 1-6.)

“THE COURT: Let me see if the Court can answer the last question the Foreman has put to us.

“All of the evidence admitted in the trial so far as it relates to any particular defendant, may be considered by the jury in determining the guilt or the innocence of the defendant, not only as to any so-called forgery charge, but also as to the alleged conspiracy. In other words, it is legally possible for the same evidence to establish either the guilt or the innocence of a defendant upon

both the conspiracy charge and any charge involving the alleged forgery; and not only is it legally permissible, but it is the duty of the jury to consider all evidence pertaining to any particular defendant with reference to all of the decisions; and in considering the conspiracy indictment all evidence as against a particular defendant, even though it may bear upon an alleged forgery charge, is likewise to be taken into consideration in determining the question of guilt or innocence on the conspiracy charge.

“Is there some further question? (Rep. Tr. p. 1729, lines 7-26.)

“FOREMAN PERSON: A further question has just been propounded by one of the jurors, your Honor, as to whether it is proper after proper debate and proper consideration by the juror, either with the other jurors or with himself, to bring in examples of transactions he had outside of this case and apply to the instances shown in the case.

“THE COURT: I am not sure that we grasp fully what was implied by that question. Of course, in determining the question of the guilt or innocence of the defendant the jury is confined strictly to the evidence submitted during the trial. No man should be, or indeed may legally be convicted upon evidence with which he has not been confronted, upon evidence, in other words, that is outside the record. One can see the dangers of a grave miscarriage of justice if any so-called outside evidence would be permitted to determine the guilt or innocence of one charged with an offense.

“FOREMAN PERSON: Your Honor, to further explain that, the question is as to trying to decide what a

defendant's reaction would be to a certain circumstance, for the juror to select some circumstance in his own business or life's experience, and decide or show what his own personal reaction was to that and then apply that to this particular case." (Rep. Tr. p. 1730, lines 1-25.)

The Court then reread to the jury the instruction theretofore given on reasonable doubt.

"FOREMAN PERSON: Your Honor, I didn't see that that touched at all on the matter of injecting past experiences of a juror as an illustration in debating (Rep. Tr. p. 1732, lines 24-26) on the subject.

"THE COURT: If an illustration or reference respecting some personal experience is used as typifying what the average reasonable fair minded man would do under like or similar circumstances; if in other words, such example is cited as typifying how the average reasonable person would react to substantially identical circumstances, then we can see no criticism of a juror so acting." (Rep. Tr. p. 1733, lines 1-9.)

Thereupon the jury retired for further deliberation. Thereafter and on Tuesday, January 30, 1934, at about the hour of 11:55 a. m., the jury returned the following verdict into court in the above cause, Case No. 11752-H:

"We, the jury in the above-entitled case impaneled and sworn, find the defendant Roscoe Clough is guilty.

"Dated Jan. 27, 1934.

"Ray K. Person, Foreman.

"We, the jury in the above-entitled case impaneled and sworn, find the defendant Jack Malowitz is guilty.

"Dated Jan. 27, 1934.

"Ray K. Person, Foreman.

“We the jury in the above-entitled case impaneled and sworn, find the defendant Harry M. Curry is guilty.

“Dated January 29, 1934.

“Ray K. Person, Foreman.

“We, the jury in the above-entitled case impaneled and sworn, find the defendant J. V. Spaugh is guilty.

“Dated January 30, 1934.

“Ray K. Person, Foreman.

“FILED Jan. 30, 1934 R. S. Zimmerman, Clerk, By M. R. Winchell, Deputy Clerk.”

In case No. 11755-H the defendant Harry M. Curry was found not guilty, the said verdict being dated January 29, 1934, and was filed January 30, 1934.

In case No. 11757-H, United States of America v. Roscoe Clough, Jack Malowitz and Harry M. Curry, the jury returned the following verdict:

“We, the jury in the above entitled case, impaneled and sworn, find the defendant

Roscoe Clough is guilty of Count One;
 “ “ “ Count Two;
 “ “ “ Count Three;
 “ “ “ Count Four;
 “ “ “ Count Five.

“Dated Jan. 27, 1934.

“Ray K. Person, Foreman.

“We, the jury in the above entitled case, impaneled and sworn, find the defendant

Jack Malowitz is not guilty of Count One;
 " " " " Count Two;
 " " " " Count Three;
 is not guilty of Count Four;
 " " " " Count Five.

"Dated Jan. 28, 1934.

"Ray K. Person, Foreman.

"We, the jury in the above entitled case, impaneled and sworn, find the defendant

Harry M. Curry is guilty of Count One;
 " " " Count Two;
 " " " Count Three;
 " " " Count Four;
 " " " Count Five.

"Dated Jan. 29, 1934.

"Ray K. Person, Foreman.

"FILED Jan. 30, 1934 R. S. Zimmerman, Clerk, By M. R. Winchell, Deputy Clerk."

Thereafter the defendant J. V. Spaugh moved the Court to vacate and set aside the verdict of guilty theretofore rendered and moved the Court for a new trial upon the following grounds:

1. That the Court erred in consolidating the indictment in case No. 11752-H, against the defendant J. V. Spaugh, over the objection of said J. V. Spaugh, for trial with numerous other indictments charging offenses against different persons, in which said other indictments the defendant J. V. Spaugh was not named as a defendant, and said other indictments being named and numbered as follows:

United States of America v. Roscoe Clough, being No. 11668-H, in the United States District Court for the Southern District of California, Central Division;

United States of America v. Roscoe Clough and Jack Malowitz, being No. 11751-H in said Court;

United States of America v. Roscoe Clough, Harry M. Curry and Jack Malowitz, being No. 11755-H in said Court;

United States of America v. Roscoe Clough, being No. 11756-H in said Court;

United States of America v. Roscoe Clough, Jack Malowitz and Harry M. Curry, being No. 11757-H in said court;

United States of America v. Roscoe Clough, being No. 11758-H in said Court.

2. That the Court erred in inquiring of the jury, while they were still deliberating upon the case of the defendant J. V. Spough, as to how they were divided numerically.

3. That the Court erred in instructing the jury to the effect that the minority of the jurors should yield their dissenting opinions to the majority, in that said instruction constituted an act of coercion by the court.

Thereafter the defendant Harry M. Curry moved the Court to vacate and set aside the verdict of guilty theretofore rendered and moved the court for a new trial upon the following grounds:

1. That the Court erred in inquiring of the jury, while they were still deliberating upon the case of the

defendant Harry M. Curry, as to how they were divided numerically.

2. That the Court erred in instructing the jury to the effect that the minority of the jurors should yield their dissenting opinions to the majority, in that said instruction constituted an act of coercion by the Court

Said motions for a new trial and each of them were denied on the 12th day of March, 1934, to which ruling the defendants Harry M. Curry and J. V. Spaugh and each of them duly excepted.

WHEREFORE, to the end that the proceedings and exceptions aforesaid may be and remain of record, the defendants J. V. Spaugh and Harry M. Curry here now present the within and foregoing bill of exceptions and pray that the same may be settled and allowed as said defendants J. V. Spaugh and Harry M. Curry's bill of exceptions on appeal from the judgment in said cause No. 11752-H as so consolidated, including said cause No. 11757-H, and as well for any and all purposes for which a bill of exceptions may properly be used.

Dated this 25 day of June, 1934, at Los Angeles, Calif.

Frank P Doherty

Frank P. Doherty

William R. Gallagher

William R. Gallagher

Attorneys for Deft. J. V. Spaugh

Ames Peterson

Ames Peterson

Attorney for Deft. Harry M. Curry

IT IS HEREBY STIPULATED that the within and foregoing bill of exceptions contains a true, complete and correct statement of all proceedings had and taken in said cause as so consolidated; that the same was prepared and served within the time allowed by law and extended by stipulation and by order of court; that the same may be settled and allowed by the Court as the defendant Harry M. Curry and the defendant J. V. Spaugh's engrossed bill of exceptions in the form herein presented, to be used on appeal from the judgment in the above cause as so consolidated, including cause No. 11757-H, and as well for any and all purposes for which such bill of exceptions may properly be used.

IT IS FURTHER STIPULATED that the defendants J. V. Spaugh and Harry M. Curry make no point on this appeal as to the sufficiency of the evidence to sustain the verdict; that the evidence as regards the guilt of said defendants was conflicting but sufficient to sustain the verdict found and returned by the jury; that in view of the waiver on the part of the defendants J. V. Spaugh and Harry M. Curry as to any errors in the admission or rejection of evidence and the sufficiency of said evidence to sustain the verdict, there may be no

statement of the evidence offered and received in said cause as so consolidated set forth in this bill of exceptions.

PEIRSON M. HALL,

United States Attorney,

J. J. Irwin

J. J. Irwin,

Assistant United States Atty.,

By Ernest R Utley

Ernest R. Utley,

Assistant United States Atty.

Attorneys for Plaintiff

Frank P Doherty

Frank P. Doherty

William R. Gallagher

William R. Gallagher

Attorneys for Deft. J. V. Spaugh.

Ames Peterson

Ames Peterson

Attorney for Deft. Harry M. Curry

ORDER

Pursuant to the foregoing stipulation of the parties, IT IS ORDERED that the within and foregoing bill of exceptions is true and correct and embraces and contains all of the proceedings had and taken in said cause as so consolidated, including cause No. 11757-H, and likewise contains all exceptions to rulings during the progress of said cause as so consolidated, including cause No. 11757-H, and saved as appears in said bill of exceptions, and the same is hereby allowed and settled and ordered filed as the defendants J. V. Spaugh and Harry M. Curry's engrossed bill of exceptions in said cause as so consolidated, including said cause No. 11757-H.

IT IS FURTHER ORDERED that the said engrossed bill of exceptions need not contain a statement of the evidence given or offered on the trial of the above entitled cause as so consolidated, including said cause No. 11757-H, for the reasons set forth in the above and foregoing stipulation of the parties hereto.

Dated this 1st day of August 1934.

Hollzer
United States District Judge.

IN THE UNITED STATES CIRCUIT COURT OF
 APPEALS FOR THE NINTH CIRCUIT

UNITED STATES OF)	
AMERICA,)	
)	
	)	No. 11752-H
Plaintiff,)	
)	
vs.	)	NOTICE OF
	)	PRESENTATION
J. V. SPAUGH, HARRY M.	)	OF BILL OF
CURRY, et al.,	)	EXCEPTIONS
)	
Defendants.)	

TO THE HON PEIRSON M. HALL, UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA, AND TO ERNEST R. UTLEY AND J. J. IRWIN, ASSISTANT UNITED STATES ATTORNEYS:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the foregoing bill of exceptions constitutes and is the proposed bill of exceptions of the defendants and appellants, J. V. Spough and Harry M. Curry, in the above entitled cause as consolidated, including cause No. 11757-H, and is hereby tendered as such, and the said defendants and appellants will apply to the above entitled court to have the same allowed, signed, settled and sealed

by this court as the bill of exceptions herein pursuant to the statute in such cases made and provided.

Dated this 25 day of June, 1934.

Frank P. Doherty

Frank P. Doherty

William R. Gallagher

William R. Gallagher

Attorneys for Deft. J. V. Spauh

Ames Peterson

Ames Peterson

Attorney for Deft. Harry M. Curry

Received copy of the within Bill of Exceptions this 25 day of June 1934.

Ernest R. Utley

Attorney for Gov't

Received copy of the within Notice of filing this 25 day of June 1934

Ernest R. Utley

Attorney for Gov't

[Endorsed]: Lodged Jun 25 1934 R. S. Zimmerman,
Clerk By Edmund L Smith Deputy Clerk Filed Aug 2-
1934 R. S. Zimmerman, Clerk By Thomas Madden,
Deputy Clerk

[TITLE OF COURT AND CAUSE.]

STIPULATION AND ORDER

No. 11752-H

IT IS HEREBY STIPULATED by and between the plaintiff and the defendants J. V. Spaugh and Harry M. Curry, by and through their respective counsel, that the said defendants J. V. Spaugh and Harry M. Curry may have to and including the 31st day of May, 1934, in which to prepare, serve and file his proposed bill of exceptions herein and that the term of court be extended to the 30th day of June, 1934 and until the bill of exceptions herein is settled and signed.

Dated this 15th day of March, 1934.

PEIRSON M. HALL,

United States Attorney,

By Ernest R Utley

Assistant United States Attorney

Frank P. Doherty

Geo. R. Robbins

D

Attorney for Defendant J. V. Spaugh

Upon reading and filing the foregoing stipulation, IT IS HEREBY ORDERED that the defendants, J. V. Spaugh and Harry M. Curry, may have to and including the 31 day of May, 1934, in which to prepare, serve and file his proposed bill of exceptions herein and the term of court is hereby extended to said 30 day of June, 1934, and until the bill of exceptions herein is settled and signed.

Dated this 15th day of March, 1934.

Hollzer

United States District Judge.

[Endorsed]: Filed Mar. 15, 1934. R. S. Zimmerman, Clerk By Edmund L. Smith Deputy Clerk

[TITLE OF COURT AND CAUSE.]

STIPULATION AND ORDER

No. 11752-H

IT IS HEREBY STIPULATED by and between the plaintiff and the defendants J. V. Spaugh and Harry M. Curry, through their respective counsel, that the said defendants J. V. Spaugh and Harry M. Curry may have to and including the 30th day of June, 1934, in which to prepare, serve and file their proposed bill of exceptions herein.

Dated this 25 day of May, 1934.

PEIRSON M. HALL

United States Attorney

By Ernest R. Utley

Ames Peterson

Attorney for Defendant Harry M. Curry.

Frank P. Doherty

Attorney for Defendant J. V. Spaugh

Upon reading and filing the foregoing stipulation, IT IS HEREBY ORDERED that the defendants J. V. Spaugh and Harry M. Curry may have to and including the 30th day of June, 1934, in which to prepare, serve and file their proposed bill of exceptions herein.

Dated this 25 day of May, 1934.

Hollzer

Judge.

[Endorsed]: Filed May 26, 1934. R. S. Zimmerman, Clerk, By Thomas Madden Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

STIPULATION FOR EXTENSION OF TIME
WITHIN WHICH TO PREPARE AND FILE
PROPOSED AMENDMENTS AND OBJEC-
TIONS TO PROPOSED BILL OF EXCEP-
TIONS.

No. 11752-H

IT IS HEREBY STIPULATED and agreed by and between counsel for the respective parties that the defendant United States of America shall have up to and including the 4th day of August, 1934, within which to prepare and file Proposed Amendments and Objections to the Proposed Bill of Exceptions of Defendants J. V. Spaugh and Harry M. Curry in the above entitled case.

DATED: June 26, 1934.

PEIRSON M. HALL,
United States Attorney,
Ernest R Utley
Ernest R. Utley,
Assistant United States Attorney,
Attorneys for Plaintiff.

Frank P. Doherty
Frank P. Doherty,
William R. Gallagher
William R. Gallagher,
Attorney for Deft. J. V. Spaugh
Ames Peterson
Ames Peterson,
Attorney for Deft. Harry M. Curry

IT IS SO ORDERED this 27 day of June, 1934.

Hollzer

United States District Judge.

[Endorsed]: Filed Jun. 27, 1934. R. S. Zimmerman,
Clerk By Thomas Madden Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

STIPULATION AND ORDER

No. 11752-H

No. 11757-H

IT IS HEREBY STIPULATED by and between the plaintiff and the defendants J. V. Spaugh and Harry M. Curry in the above entitled consolidated cause, by and through their respective counsel, that the term of court may be extended for the purpose of making any and all motions, orders and the taking of any proceedings whatsoever in connection with the preparation of the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit of the above entitled consolidated cause, including said cause No. 11757-H, including the signing, settling, allowing, engrossing and filing of the Bill of Exceptions, the preparation of the record on appeal, and all other matters and things in connection with the taking of said appeal or appeals by the said defendants J. V. Spaugh and Harry M. Curry.

Dated this 9 day of Aug 1934.

PEIRSON M. HALL,
United States Attorney

J. J. Irwin
J. J. Irwin
Asst. U. S. Attorney

By Ernest R. Utley
Ernest R. Utley
Asst. U. S. Attorney,
Attorneys for Plaintiff

Frank P. Doherty

Frank P. Doherty

William R. Gallagher

William R. Gallagher

Attorneys for Deft. J. V. Spaugh

Ames Peterson

Ames Peterson

Attorney for Deft. Harry M. Curry

Good cause appearing therefor, IT IS HEREBY ORDERED that the term of court is hereby extended for the purpose of making any and all motions, orders and the taking of any proceedings whatsoever in connection with the preparation of the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit of the above entitled consolidated cause, including said cause No. 11757-H, including the signing, settling, allowing, engrossing and filing of the Bill of Exceptions, the preparation of the record on appeal, and all other matters and things in connection with the taking of said appeal or appeals by the said defendants J. V. Spaugh and Harry M. Curry.

Dated this 9th day of August 1934.

Hollzer

United States District Judge.

[Endorsed]: Filed Aug 9, 1934. R. S. Zimmerman,
Clerk By Thomas Madden, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

PETITION FOR APPEAL

No. 11752-H

TO THE HONORABLE DISTRICT COURT OF
THE UNITED STATES, FOR THE SOUTH-
ERN DISTRICT OF CALIFORNIA, AND TO
PEIRSON M. HALL, ESQ., UNITED STATES
ATTORNEY, LOS ANGELES, CALIFORNIA,
AND TO THE HONORABLE CLERK OF THE
ABOVE ENTITLED COURT:

YOU, AND EACH OF YOU, WILL PLEASE
TAKE NOTICE, that the defendant J. V. Spaugh de-
sires to appeal to the United States Circuit Court of
Appeals for the Ninth Circuit from the judgment and
sentence heretofore, to-wit, on the 15th day of March,
1934, made and entered against said defendant in the
above entitled cause, and from each and every part there-
of, and presents herewith his assignment of errors and
prays that such appeal be allowed.

Dated: March 1934.

Frank P. Doherty

Geo. R. Robbins

D

Attorney for Defendant J. V. Spaugh

[Endorsed]: Filed Mar. 15 1934 R. S. Zimmer-
man, Clerk By Edmund L. Smith Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

UNITED STATES OF AMERICA,))	
)	
Plaintiff, )	)	No. 11752-H
)	
vs.))	
	)	ASSIGNMENT
ROSCOE CLOUGH, J. V. )	)	OF ERRORS
SPAUGH, et al.,))	
)	
Defendants.))	

Comes now J. V. Spaugh, one of the defendants in the above entitled cause, and files the following statement and assignment of errors which he will rely upon for the prosecution of his appeal in the above entitled cause:

I.

That the Court erred in consolidating the indictment in the case of United States of America, Plaintiff, vs. Roscoe Clough, J. V. Spaugh, et al., Defendants, being No. 11752-H, for trial, over the objection of the defendant J. V. Spaugh, with indictments in the following cases in which the defendant J. V. Spaugh was not named as a defendant:

United States of America v. Roscoe Clough, No. 11668-H;	
United States of America v. Roscoe Clough	
and Jack Malowitz	No. 11751-H;

- United States of America v. Roscoe Clough
and Harry M. Curry No. 11755-H;
United States of America v. Roscoe Clough, No. 11756-H;
United States of America v. Roscoe Clough,
Jack Malowitz and Harry M. Curry, No. 11757-H;
United States of America v. Roscoe Clough, No. 11758-H.

II.

The Court erred in overruling the demurrer of the defendant J. V. Spaugh to the indictment.

III.

The Court erred in denying the motion of the defendant J. V. Spaugh for a directed verdict of not guilty made at the conclusion of the government's case in chief, which said motion was made upon the ground of the insufficiency of the evidence to warrant or sustain a verdict of guilty as to the defendant J. V. Spaugh of the offense charged in the indictment.

IV.

The Court erred in denying motion of the defendant J. V. Spaugh for a directed verdict of not guilty made at the close of all the evidence, which said motion was made upon the ground of insufficiency of the evidence to warrant or sustain the verdict of guilty as to the defendant J. V. Spaugh of the offense charged in the indictment.

V.

That the Court erred in denying the motion of the defendant J. V. Spaugh for a directed verdict of not guilty made at the conclusion of the government's case in chief and renewed at the close of the entire case, which

said motion was made upon the ground of the insufficiency of the evidence to warrant or sustain a verdict of guilty as to the defendant J. V. Spaugh of the offense charged in the indictment.

VI.

The Court erred in admitting the introduction of any evidence under the indictment herein by reason of the fact that said indictment does not nor does any part thereof state facts sufficient to constitute an offense against the laws of the United States of America as to the defendant J. V. Spaugh.

VII.

The Court erred in instructing the jury and in giving a supplemental charge to the jury as follows:

“The only mode, provided by our constitution and laws for deciding questions of fact in criminal cases, is by the verdict of a jury. In a large proportion of cases, and perhaps, strictly speaking, in all cases, absolute certainty cannot be attained or expected. Although the verdict to which a juror agrees must of course be his own verdict, the result of his own convictions, and not a mere acquiescence in the conclusion of his fellows, yet, in order to bring twelve minds to a unanimous result, you must examine the questions submitted to you with candor, and with a proper regard and deference to the opinions of each other. You should consider that the case must at some time be decided; that you are selected in the same manner, and from the same source, from which any future jury must be; and there is no reason to suppose that the case will ever be submitted to twelve men more intelligent, more impartial, or more compe-

tent to decide it, or that more or clearer evidence will be produced on the one side or the other. And with this view, it is your duty to decide the case, if you can conscientiously do so. In order to make a decision more practicable, the law imposes the burden of proof on one party or the other, in all cases. In the present case, the burden of proof is upon the United States to establish every part of it, beyond a reasonable doubt; and if, in any part of it, you are left in reasonable doubt, the defendant is entitled to the benefit of such doubt. But, in conferring together, you ought to pay proper respect to each other's opinions, and listen, with a disposition to be convinced, to each other's arguments. And, on the one hand, if a majority are for acquittal, the minority ought seriously to ask themselves whether they may not reasonably, and ought not to doubt the correctness of a judgment, which is not concurred in by most of those with whom they are associated; and possibly distrust the weight or sufficiency of that evidence which fails to carry conviction to the minds of their fellows. And, on the other hand, if much the larger number of your panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath."

which said instruction and supplemental charge constituted an act of coercion on the part of the trial court and coerced the minority of the jury to surrender their honest convictions in order to join the majority in bring-

ing in a verdict of guilty, against the dictates of their own judgment.

VIII.

The Court erred in recalling the jury after it had retired and had been deliberating for forty-six hours and inquiring of the jury as to how it was divided numerically while the jury was still deliberating upon its verdict as to the defendant J. V. Spaugh and had not reached an agreement as to the defendant J. V. Spaugh, said inquiry being as follows:

“Without indicating just how many ballots have been for one way and how many ballots the opposite way, that is to say, without indicating just how many stand in any particular way, either for acquittal or otherwise, but merely giving the numbers voting one way as against the other way; for example, if in one case stands 6 to 6, without indicating anything further, or if another case the vote stands 8 to 4, without indicating how many stand for acquittal and how many for conviction, may we ask you to indicate first of all, how many ballots have been taken in 11,752, which is the so-called conspiracy charge.

“FOREMAN PERSON: Your Honor, the different number of ballots have been taken separately against the different defendants.

“THE COURT: Well, then, coming now to the last balloting, will you indicate the numerical division, without indicating how many voted for acquittal and how many voted otherwise.” (Rep. Tr. p. 1719 line 21 to p. 1720 line 13.)

“THE COURT: Now, turning to case No. 11.752, may we inquire as to any balloting that still remains to

be done, without indicating as to which defendant, but as to any balloting that still remains to be done—the numerical division with respect to such ballot.

“FOREMAN PERSON: In the case of one defendant, the ballot is ten to two; in the case of another defendant it is eleven to one.” (Rep. Tr. p. 1721, lines 10-17.)

IX.

The Court erred in making the following inquiry of the jury while the jury was still deliberating upon the case of the defendant J. V. Spaugh:

“THE COURT: Well, then, coming now to the last balloting, will you indicate the numerical division, without indicating how many voted for acquittal and how many voted otherwise.”

X.

The Court erred in giving the jury the following instruction:

“The instruction did go on to point out that, keeping in mind that rule, if on the one hand a majority are for acquittal, the minority ought to seriously ask themselves, whether they may not reasonably, and ought not to doubt the correctness of a judgment, which is not concurred in by most of those with whom they are associated. And we further pointed out that if, on the other hand, much the larger number of the panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal

desire to arrive at the truth, and under the sanction of the same oath.”

Dated March 15, 1934.

Frank P. Doherty

Geo R Robbins

Attorneys for Defendant J. V. Spaugh.

[Endorsed]: Filed Mar. 15, 1934 R. S. Zimmerman, Clerk By Edmund L. Smith Deputy Clerk

[TITLE OF COURT AND CAUSE.]

No. 11752-H

ORDER ALLOWING APPEAL AND FIXING BOND

Upon reading and filing the petition of the defendant J. V. Spaugh for appeal from the judgment and sentence rendered herein against said defendant, together with an assignment of errors, and upon motion of Frank P. Doherty, attorney for said defendant;

IT IS HEREBY ORDERED that an appeal be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit the judgment and sentence heretofore entered herein against said defendant;

That pending the decision upon said appeal the defendant J. V. Spaugh be and he is hereby admitted to bail upon said appeal in the sum of \$5000; cost bond to be given by said defendant in the sum of \$250.00.

Dated this 15 day of March, 1934.

Hollzer

United States District Judge

[Endorsed]: Filed Mar 15 1934 R. S. Zimmerman, Clerk, By Edmund L. Smith, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

PETITION FOR APPEAL AND FOR ORDER
FIXING AMOUNT OF BOND.

No. 11752-H
11757-H

Comes now HARRY M. CURRY, and feeling himself aggrieved by the final decree and judgment of the court entered on the 15 day of March, A. D. 1934, hereby prays that an appeal may be allowed to him from said judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and, in connection with this petition, that an appeal may be allowed to him from said judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and, in connection with this petition, petitioner herewith presents his assignment of errors.

Petitioner further prays that an order of supersedeas may be entered herein pending the final disposition of the cause and that the amount of security may be fixed by the order allowing this appeal, and a proper transcript of the record of proceedings and papers upon which said judgment was made, duly authenticated, shall be transmitted to the United States Circuit Court of Appeals for the Ninth Circuit.

Ames Peterson
Attorney for Appellant HARRY M. CURRY.

[Endorsed]: Filed Mar. 15, 1934. R. S. Zimmerman, Clerk By Thomas Madden, Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION.

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

ASSIGNMENT
OF ERRORS.

ROSCOE CLOUGH, et al.,)

Defendants.)

No. 11752 H
11757 H

Comes now the appellant, HARRY M. CURRY, and in connection with his appeal in this proceeding, says that, in the record, proceedings, and the final judgment therein, manifest error has intervened, to the prejudice of the appellant, to-wit:

I.

That the Court erred in denying defendant's motion at the close of the Government's case in chief that the jury be instructed to return a verdict of not guilty on all counts of said indictments.

II.

That the Court erred at the close of all the evidence of the case in denying defendant's motion that the jury be directed to return a verdict of not guilty on all counts as against him.

III.

That the Court erred in admitting the introduction of any evidence under either of the above named indictments by reason of the fact that said indictments do not, nor does either of them, state sufficient facts to constitute a public offense as against the said HARRY M. CURRY.

IV.

That the Court erred in inquiring of the jury prior to their arriving at a verdict and while they were still deliberating on said case, as to how they stood numerically with reference to said defendant and other defendants in said cases.

V.

That the Court erred in permitting the Government to introduce testimony showing what became of the money that the defendant HARRY M. CURRY obtained from a loan upon the so-called Ed. Weideman bonds, which said loan was obtained at the International Branch of the Bank of America.

VI.

That the Court erred in permitting in evidence the bank balance sheet of the said HARRY M. CURRY.

VII.

That the Court erred in permitting in evidence the cancelled checks of the said HARRY M. CURRY, which checks were drawn against monies on deposit under the name of HARRY M. CURRY CLIENT ACCOUNT in the International Branch of the Bank of America.

VIII.

That after inquiring of the jury as to whether they were still balloting upon various defendants, the Court erred in giving the following instruction:

“The only mode, provided by our constitution and laws for deciding questions of fact in criminal cases, is by the verdict of a jury. In a large proportion of cases, and perhaps, strictly speaking, in all *case*, absolute certainty cannot be attained or expected. Although the verdict to which a *jury* agrees must of course be his own verdict, the result of his own convictions, and not a mere acquiescence in the conclusion of his fellows, yet, in order to bring twelve minds to a unanimous result, you must examine the questions submitted to you with candor, and with a proper regard and deference to the opinions of each other. You should consider that the case must at some time be decided; that you are selected in the same manner, and from the same source, from which any future jury must be; and there is no reason to suppose that the case will ever be submitted to twelve men more intelligent, more impartial, or more competent to decide it, or that more or clearer evidence will be produced on the one side or the other. And with this view, it is your duty to decide the case, if you can conscientiously do so. In order to make a decision more practicable, the law imposes the burden of proof on one party or the other, in all cases. In the present case, the burden of proof is upon the United States to establish every part of it, beyond a rea-

sonable doubt; and if, in any part of it, you are left in reasonable doubt, the defendant is entitled to the benefit of such doubt. But, in conferring together, you ought to pay proper respect to each other's opinions, and listen, with a disposition to be convinced, to each other's arguments. And, on the one hand, if a majority are for acquittal, the minority ought seriously to ask themselves, whether they may not reasonably, and ought not to doubt the correctness of a judgment, which is not concurred in by most of those with whom they are associated; and possibly distrust the weight or sufficiency of that evidence which fails to carry conviction to the minds of their fellows. And, on the other hand, if much the larger number of your panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath."

IX.

The Court erred in asking the following question:

"THE COURT: Well, then, coming now to the last balloting, will you indicate the numerical division, without indicating how many voted for acquittal and how many voted otherwise."

X.

The Court erred in giving the following instruction:

“The instruction did go on to point out that, keeping in mind that rule, if on the one hand a majority are for acquittal, the minority ought to seriously ask themselves, whether they may not reasonably, and ought not to doubt the correctness of a judgment, which is not concurred in by most of those with whom they are associated. And we further pointed out that if, on the other hand, much the larger number of the panel are for a conviction, a dissenting juror should likewise consider whether a doubt in his own mind is a reasonable one, which makes no impression upon the minds of so many men, equally honest, equally intelligent with himself, who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath.”

XI.

That the Court erred in denying defendant CURRY'S motion for a new trial.

Ames Peterson.

Attorney for Defendant HARRY M. CURRY.

Dated: February 23rd, 1934.

[Endorsed]: Filed Mar 15, 1934 R. S. Zimmerman,
Clerk By Thomas Madden, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

ORDER ALLOWING APPEAL AND FIXING
AMOUNT OF APPEAL BOND.

No. 11752 H
11757 H

Appeal to the United States Circuit Court of *Appeal* for the Ninth Circuit is allowed, to Harry M. Curry and petition for appeal approved, upon giving of bond as required by law, in the sum of Five Thousand Dollars property bond or Three Thousand surety bond, which bond shall operate as a supersedeas bond, upon filing said bond which is to be approved by this court.

DATED: March 15, 1934.

Hollzer

Judge of said Court.

[Endorsed]: Filed Mar. 15, 1934. R. S. Zimmerman, Clerk By Thomas Madden, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

No. 11752-H

BOND OF J. V. SPAUGH

Pending decision upon appeal, know all men by these presents that we, J. V. SPAUGH, of the City of Bell, County of Los Angeles, State of California, as principal, and I N Vaughn and M. and Roberta V. Shoemaker, as sureties, are jointly and severally held and firmly bound unto the United States of America in the sum of Five Thousand no/100 Dollars *Dollars*, for the payment of which said sum we, and each of us, bind ourselves, our heirs, executors, administrators and assigns.

Signed and dated this 15 day of March, 1934.

WHEREAS later, to-wit, on the 15 day of March, 1934, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending in said court between the United States of America, plaintiff, and J. V. Spough, defendant, a judgment and sentence was made, given and rendered against the said J. V. Spough in the above entitled action wherein he was convicted as charged in said indictment;

WHEREAS in said judgment and sentence it was so made, given and rendered against said J. V. Spough, he was by said judgment sentenced to imprisonment in the United States Penitentiary at McNeil's Island for the period of Eighteen months and to pay a fine aggregating the sum of One thousand 00/100 Dollars;

That said J. V. Spough, having obtained an appeal from the United States Circuit Court of Appeals for the Ninth

Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, in pursuance to the terms and at the time fixed in said citation;

WHEREAS said J. V. Spaugh has been admitted to bail pending the decision upon said appeal in the sum of Five Thousand no/100 (\$5000.00) Dollars;

NOW, THEREFORE, the conditions of the above obligations are such that if the said J. V. Spaugh shall appear in person or by his attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said court and prosecute his appeal, and if the said J. V. Spaugh shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and if the said J. V. Spaugh shall surrender himself in execution of said judgment and sentence and shall pay all fines that have been assessed against him if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit, and if the said J. V. Spaugh shall appear for trial in the District Court of the United States, in and for the Southern District of California, Central Division, on such day or days as may be appointed for re-trial by said District Court, and abide by and obey all orders made by said District Court if the said judgments and sentence against him be reversed by the United States Circuit Court of Appeals for the Ninth Circuit;

Then this obligation to be void; otherwise to remain in full force, virtue and effect.

J V Spaugh
 (J. V. Spaugh) Principal
 4432 Gage Ave. Bell

Acknowledged before me the day
 and year first above written.

M. Shoemaker

Roberta V Shoemaker

I N Vaughn

Surety

Surety

UNITED STATES OF AMERICA)
 SOUTHERN DISTRICT OF CALIFORNIA) ss.
 COUNTY OF LOS ANGELES.)

M. Shoemaker and Roberta V Shoemaker, his wife, being first duly sworn, each for himself deposes and says: that they are freeholders in said District and worth a sum in excess of 12000.00 Dollars exclusive of property exempt from execution and over and above all debts and liabilities. Said properties among others are as follows, and are located in the above mentioned District:

N. W. ¼ of N W ¼ of Section 34 T 1-West Range
 7 San Bernardino Co

Value \$30,000. Clear of encumbrances.

The title to all of the above described property is vested in the undersigned and is free from all encumbrances excepting taxes.

M. Shoemaker

Roberta V. Shoemaker

R F D #3 Ontario Calif

Subscribed and sworn to before me this 16 day of
March, 1934.

[Seal]

David B. Head
United States Commissioner

UNITED STATES OF AMERICA)
SOUTHERN DISTRICT OF CALIFORNIA) ss.
COUNTY OF LOS ANGELES.)

I. N. Vaughn and....., being
first duly sworn, each for himself deposes and says: that
he is a freeholder in said district and is worth the sum of
Twelve Thousand No/100 (\$12,000/00)
Dollars exclusive of property exempt from execution and
over and above all debts and liabilities. Said properties
among others are as follows: 126' on Bell Ave. and 310'
on Riverside Drive known as 4025 Bell Ave., Bell, Calif.
and legally known as part of Block B, Grider & Hamilton
subdivision of easterly portion of Bell Tract, Los An-
geles County and Lots 16 and 20, Block C, Tract 1662,
Los Angeles County; all of above my separate property
and subject to incumbrance of \$2200.00 and taxes.

Property of value \$12,000—

I. N. Vaughn
Address: 4030 Bell Ave
Bell Calif

Subscribed and sworn to before me this 15 day of
March, 1934.

[Seal]

David B. Head
U. S. Commissioner

I hereby certify that I have examined the sureties on the foregoing bond and find them good and sufficient.

[Seal]

David B. Head

U. S. Commissioner

Approved as to form

Ernest R. Utley

Asst U S Atty

I hereby approve the foregoing bond.

Dated the 16 day of March, 1934.

Hollzer

Judge

[Endorsed]: Filed Mar. 16, 1934. R. S. Zimmerman, Clerk. By Thomas Madden, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

No. 11752-H

BOND OF J. V. SPAUGH FOR COSTS ON APPEAL

UNITED STATES OF AMERICA,)

)ss.

SOUTHERN DISTRICT OF CALIFORNIA.)

KNOW ALL MEN BY THESE PRESENTS:

That we, J. V. Spaugh, as principal, and I. N. Vaughn Helen Redans as sureties are held and firmly bound unto the United States of America, in the sum of Two Hundred Fifty Dollars (\$250.00), to the payment of which well and truly to be made we jointly and severally bind ourselves, our executors, administrators and successors, firmly by these presents.

WITNESS our hands and seals at Los Angeles, California, this 15 day of March 1934.

WHEREAS, on the 15 day of March, 1934, in the District Court of the United States, for the Southern District of California, Central Division, sentence was pronounced on the said J. V. Spaugh, and on the 15 day of March, 1934, a citation was issued, directed to the United States of America, to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, pursuant to the terms and the date fixed in the said citation;

NOW, THEREFORE, the condition of the above obligation is such that if the said J. V. Spaugh shall prosecute said appeal and answer all damages for costs if he fail to make good his plea, then the above obligation shall be null and void; otherwise to remain in full force and effect.

J. V. Spaugh

Principal

I N Vaughn

Surety

Helen Redans

Surety

I, the undersigned, attorney for the said J. V. Spaugh, hereby certify that in my opinion the form of the foregoing bond is correct, and that the sureties thereon are qualified, and we recommend same for approval.

Frank P. Doherty

Geo. R. Robbins

Attorney for Appellant J. V. Spaugh.

The foregoing bond is hereby approved as to form.

PEIRSON M. HALL,

United States Attorney,

By Ernest R. Utley

Asst. United States Attorney.

UNITED STATES OF AMERICA)
SOUTHERN DISTRICT OF CALIFORNIA) ss.
COUNTY OF LOS ANGELES)

I N Vaughn and Helen Redans, being first duly sworn, each for himself deposes and says: that he is a freeholder in said district and is worth the sum of Twelve Hundred no/100 (\$1200.00) Dollars exclusive of property exempt from execution and over and above all debts and liabilities.

I N Vaughn

Address 4030 Bell Ave

Bell, Calif

Helen Redans

Address 2801 Sacramento

San Francisco, Cal.

Subscribed and sworn to before me this 19 day of March, 1934. as to I. N. Vaughn

[Seal]

W. G. Ross

DESCRIPTION:

W 42.13 Ft of Lot 1380 Tract No. 3648 as per Bk 40 P. 60-61 of Maps Records of Los Angeles County, State of California

Lot 206 Tract 6330 City of Santa Monica, Los Angeles County, State of California. Helen Redans 2801 Sacramento St S. F. Cal.

[TITLE OF COURT AND CAUSE.]

No. 11752-H

No. 11757-H

BOND OF HARRY M. CURRY

Pending decision upon appeal, know all men by these presents that we, Harry M. Curry, of the City of Los Angeles, County of Los Angeles, State of California, as principal, and COMMERCIAL STANDARD INSURANCE COMPANY, a Texas Corporation, as surety, are jointly and severally held and firmly bound unto the United States of America in the sum of THREE THOUSAND no/100 Dollars (\$3000.00) for the payment of which sum we, and each of us, bind ourselves, our heirs, executors, administrators and assigns.

Signed and dated this 16th day of March, 1934.

WHEREAS later, to-wit, on the 15 day of March, 1934, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending in said Court between the United States of America, plaintiff, and Harry M. Curry, defendant, a judgement and sentence was made, given and rendered against the said Harry M. Curry in the above entitled action wherein he was convicted as charged in said indictment;

WHEREAS in said judgement and sentence it was so made, given and rendered against said Harry M. Curry, he was by said Judgement sentenced to imprisonment in

a United States penitentiary for the period of two years and to pay a fine aggregating the sum of One Thousand Dollars; and to be committed until said fine shall have been paid. That said Harry M. Curry, having obtained an appeal from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgement and sentence, and a citation directed to the United States of America to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, in pursuance to the terms and at the time fixed in said citation.

WHEREAS, said Harry M. Curry has been admitted to bail pending the decision upon said appeal in the sum of Three Thousand no/100 (\$3000.00) Dollars;

NOW, THEREFORE, the conditions of the above obligations are such that if the said Harry M. Curry shall appear in person or by his attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute his appeal, and if the said Harry M. Curry shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and if the said Harry M. Curry shall surrender himself in execution of said judgement and sentence and shall pay all fines that have been assessed against him if the said judgement and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit, and if the said Harry

M. Curry shall appear for trial in the District Court of the United States, in and for the Southern District of California, Central Division, on such day or days as may be appointed for re-trial by said District Court, and abide by and obey all orders made by said District Court if the said judgments and sentence against him be reversed by the United States Circuit Court of Appeals for the Ninth Circuit; Then this obligation to be void; otherwise to remain in full force, virtue and effect.

Harry M. Curry, Principal

1208½ W 91st St. Los Angeles,

COMMERCIAL STANDARD INSURANCE
COMPANY

[Seal] By James B. Cochran, Attorney-in-Fact

[Endorsed]: I hereby certify that I have examined the within bond and find the surety thereon good and sufficient. David B. Head. United States Commissioner (Seal) O. K. as to form Ernest R. Utley Asst. U. S. Atty Approved Dated this 16 day of March, 1934. Hollzer U. S. District Judge Filed Mar 16 1934 R. S. Zimmerman, Clerk, By Thomas Madden, Deputy Clerk

[TITLE OF COURT AND CAUSE.]

No. 11752-H

COST BOND ON APPEAL

Know All Men by These Presents

That we, HARRY M. CURRY, as principal and EDWARD C. HAVILAND and SUSIE J. HAVILAND, as Sureties are held and firmly bound unto UNITED STATES OF AMERICA in the full and just sum of TWO HUNDRED FIFTY (\$250.00) Dollars to be paid to the said UNITED STATES OF AMERICA, its certain attorney, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 5th day of June, in the year of our Lord One Thousand Nine Hundred and thirty-four.

WHEREAS, lately at the District Court of the United States for the Southern District of California, Central Division, in a suit depending in said Court between UNITED STATES OF AMERICA, as plaintiff, and HARRY M. CURRY, et al, as defendant, a Judgment was rendered against the said defendant, HARRY M. CURRY, and the said Defendant, HARRY M. CURRY, having obtained from said UNITED STATES DISTRICT COURT an order for appeal to reverse the Judgment in the aforesaid suit, and a Citation directed to the

said UNITED STATES OF AMERICA and PEIRSON M. HALL as United States Attorney for the Southern District of California, citing and admonishing them to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California,

Now, the condition of the above obligation is such, that if the said HARRY M. CURRY shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

Acknowledged before me the day and year first above written.

Harry M. Curry [Seal]
Principal.

1005 So. Arizona St.
(Address)

Edward C. Haviland
Surety.

Susie J. Haviland
Surety.

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF CALIFORNIA } ss:
COUNTY OF Los Angeles

EDWARD C. HAVILAND and SUSIE J. HAVILAND being duly sworn, each for himself deposes and says, that he is a freeholder in said District, and is worth the sum of TWO HUNDRED FIFTY (\$250.00) DOL-

LARS exclusive of property exempt from execution, and over and above all debts and liabilities. and owns property listed below

Subscribed and sworn to before me, this.....day of June A. D. 1934.

Edward C. Haviland

Surety.

1005 So. Arizona

(Address)

Susie J. Haviland

Surety.

1005 So. Arizona Ave.

(Address)

Lot 21 Blk 9—Tract 2016 Bk 27/ p 16-17-18 L. A. County. Value \$3,000—clear

1005 S. Arizona Ave. L. A.

Approved as to form

Ames Peterson

Approved, June 7, 1934

Hollzer

U. S. District Judge

I hereby certify that I have examined the sureties on the within bond and find them good and sufficient as one surety.

David B. Head

U. S. COMMISSIONER

[Endorsed]: Filed Jun 7 1934 R. S. Zimmerman,
Clerk By Thomas Madden Deputy Clerk

[TITLE OF COURT AND CAUSE.]

No. 11752-H

STIPULATION

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel, that the Clerk of this Court in preparing the Transcript of Appeal in this cause as consolidated, including cause No. 11757-H may omit captions, jurats and all endorsements from the various papers designated in the Praecipe filed herein, with the exception of the Clerk's filing stamps showing the date of the filing thereof.

DATED this 25 day of June, 1934.

PEIRSON M. HALL,
United States Attorney,

By J. J. Irwin
J. J. Irwin

Assistant United States Attorney

By Ernest R. Utley
Ernest R. Utley

Assistant United States Attorney
Attorneys for Plaintiff.

Frank P. Doherty
Frank P. Doherty
William R. Gallagher
William R. Gallagher

Attorneys for Deft. J. V. Spaugh

Ames Peterson
Ames Peterson

Attorney for Deft. Harry M. Curry

IT IS SO ORDERED.

Hollzer

United States District Judge.

[Endorsed]: Filed Jun. 26, 1934 R. S. Zimmerman
Clerk, By.....Deputy Clerk.

[TITLE OF COURT AND CONSOLIDATED CAUSE.]

Nos. 11752-H

11757-H

AMENDED PRAECIPE

To R. S. Zimmerman, Clerk of the above named Court:

Sir: Please issue and certify for the defendants J. V. Spaugh and Harry M. Curry in the above entitled Cause No. 11752-H and the defendant Harry M. Curry in the above entitled cause No. 11757-H as appellants upon appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit of the United States of America, a transcript of the record of the above entitled consolidated cause numbers 11752-H and 11757-H, and include therein the following:

1. The indictment in cause No. 11752-H.
2. The indictment in cause No. 11757-H.
3. The Pleas of the defendants to the indictments.
4. The minutes of Judge Hollzer's court January 5, 1934, showing objection of defendant J. V. Spaugh to the consolidation of the indictments.
5. The Bill of Exceptions.
6. The petitions for appeal.
7. The orders allowing the appeal and fixing bond.
8. The citations.
9. The stipulations and orders extending time for filing Bill of Exceptions.

10. The stipulations on preparation of the record on appeal.
11. The Assignments of Errors.
12. The verdicts.
13. The sentence and judgment in cause No. 11752-H.
14. The sentence and judgment in cause No. 11757-H.
15. This amended praecipe.
16. The cost bonds on appeal and the bail bonds on appeal.

Frank P. Doherty

Frank P. Doherty

William R. Gallagher

William R. Gallagher

Attorneys for Defendant and Appellant J. V. Spaugh.

Ames Peterson

Ames Peterson

Attorney for Defendant and Appellant Harry M. Curry

[Endorsed]: Filed Sep. 10, 1934. R. S. Zimmerman,
Clerk By Edmund L. Smith, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

CLERK'S CERTIFICATE.

I, R. S. Zimmerman, clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 172 pages, numbered from 1 to 172, inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation wherein J. V. Spaugh is appellant; citation wherein Harry M. Curry is appellant; indictment number 11752-H; minutes of December 4, 1933, wherein defendants enter pleas of not guilty; minutes of December 8, 1933; minutes of January 5, 1934, showing objection to consolidation of the indictments; verdicts; sentence in case number 11752-H; sentence in case number 11757-H; bill of exceptions; stipulations and orders extending time to file bill of exceptions; petition for appeal of J. V. Spaugh; assignment of errors of J. V. Spaugh; order allowing appeal of J. V. Spaugh; petition for appeal of Harry M. Curry; assignment of errors of Harry M. Curry; order allowing appeal of Harry M. Curry; bond of J. V. Spaugh; bond for costs of J. V. Spaugh; bond of Harry M. Curry; cost bond of Harry M. Curry; stipulation re printing of record, and praecipe.

I DO FURTHER CERTIFY that the amount paid for printing the foregoing record on appeal is \$ and that said amount has been paid the printer by the appellant herein and a receipted bill is herewith enclosed, also that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to..... and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Central Division, this..... day of October, in the year of Our Lord One Thousand Nine Hundred and Thirty-four and of our Independence the One Hundred and Fifty-ninth.

R. S. ZIMMERMAN,
Clerk of the District Court of the
United States of America, in
and for the Southern District
of California.

By

Deputy.